



| 17741 Linden Ln. Caldwell, ID 83607 |

December 6, 2023

RE: Notice of Protest by Beranna Dairy for Water Right Transfer No. 85639 in the name of IMH Boise Cimarron, LLC

This report evaluates the impacts of the applicant's proposed change in use of water right no. 63-3298 on the agricultural base of the local area. Based on my analysis, I conclude that the proposed change in water and land use, in the midst of productive agricultural land, will significantly affect the agricultural base of the local area in the following respects:

- Direct impacts of the proposed development on neighboring agricultural operations, particularly Beranna Dairy, Waters Feedlot, Western Farms and McIntyre Farms.
- Broader impacts to Canyon County food processors and the Canyon County agricultural economy.
- Inevitable expansion of conversion of agricultural lands in the local area out of agricultural production.

Background

15 years ago I was a senior staff planner and the Zoning Administrator during the Great Recession for the Canyon County Development Services Department (DSD). The Gray and Rawlings¹ families submitted their application for new development rights on their property during this time; but I was not assigned this case and did not participate in the hearing process. In 2008, DSD accepted conditional rezone applications were down approximately 18% in volume; this was just the beginning effects of the recession. It was evident from the Commissioners direction on this case, and other cases I was working on that the elected officials were feeling the pressure to continue supporting "economic development" any way they could.

The Gray/Rawlings case was officially approved on September 22, 2008. Just 5 months later, half of the staff of DSD were let go due to the ramifications of the failed housing and mortgage market. Applications for new development were now just a quarter of what they were. Unfortunately, the Commissioners did not understand at that time that Canyon County's agricultural sector was one of the few industries in the county that kept going, kept people employed, and continued putting food on peoples' tables. Agriculture was and still is the

¹ Since approval, all lands included in the conditional rezone and development agreement have transferred ownership. Gray properties are now owned by the Beranna Dairy and the Rawlings properties are owned by IMH Boise Cimarron, LLC.

backbone of Canyon County and helped the recovery from the recession faster than other non-agricultural areas. Thus, preserving these areas for agriculture not only sustains the growing and processing industry, but it ensures that the health of the community is resilient.

Case Overview:

Robert Gray and Richard Rawlings requested a comprehensive plan map change of the 2020 Comprehensive Plan Map from the agricultural designation to the residential designation and a conditional rezone (CR) of six parcels totaling approximately 420 acres from an agricultural zone to a rural residential zone. As part of this request, they applied for a development agreement with certain terms regarding the development of a residential subdivision.

Staff recommended denial of the comprehensive map change for two major reasons. One the property was not located in an urban growth area or a city of impact area where growth was encouraged. More significantly they noted that this property was located approximately 4 1/2 miles southwest of the Nampa city limits. expansion of city services to this area was not anticipated. Not only was this property not located within an urban growth area on the comprehensive plan map, staff found multiple policies in the comprehensive plan that did not support residential development in this agricultural area. The report stated in quotes the proposed project will be injurious to other properties in the immediate vicinity and will negatively change the essential character of the area. The adjacent properties are agricultural in nature. The parcels immediately surrounding the property are more than 30 acres in size. There is also a dairy and a feed lot within one mile of the property. Further encroachment of residential development may impede their ability to operate without complaints of noise and or odor. In one note, staff described the request as "spot zoning."

The County's landfill is one mile southeast of the development and serves as the only landfill for the County with major future growth plans/expansion. This local area of southwestern Canyon County has historically been an intensive agricultural area with limited residential uses and siting the County's landfill in this area was strategic and matches the vision of the county to not develop this land with housing, but support intensive agricultural uses. The closest residential subdivision is over one mile to the Northwest of the subject property and was platted prior to zoning regulations being adopted in Canyon County.

Ultimately, the County Commissioners approved the conditional rezone citing site specific reasons that the property consisted primarily of not-prime farmland, the property had previously received approval of a conditional use permit for residential development and that in their opinion would not change the character of the area. At lot has changed in the 15 years since this approval and we've learned a lot about the impacts to our agricultural community from these subdivisions scattered throughout the area.

Planning in Canyon County Today

In 2022, Canyon County adopted the 2030 Comprehensive Plan and Map. The 2030 plan made a concerted effort to promote and protect agriculture by, among other things, adding new overlay districts to protect the characteristics of an area or mitigate impacts. The

Rawlings/Gray, Beranna Dairy, Waters Feedlot, Western Farms and McIntyre Farms properties are all within the Intensive Agriculture overlay district south of Lake Lowell.

Intensive Agriculture²

This overlay is applied to protect working lands and operations. These areas may have higher quality soils, water availability, and relatively flat topography. Uses may include seed production, crops, orchards, vineyards, concentrated animal feeding operations, grazing, and other agriculturally-based uses. This designation aims to protect agriculture operations from incompatible uses and reduce the conflicts concerning noise, dust, smells, and safety. (Map 2³)

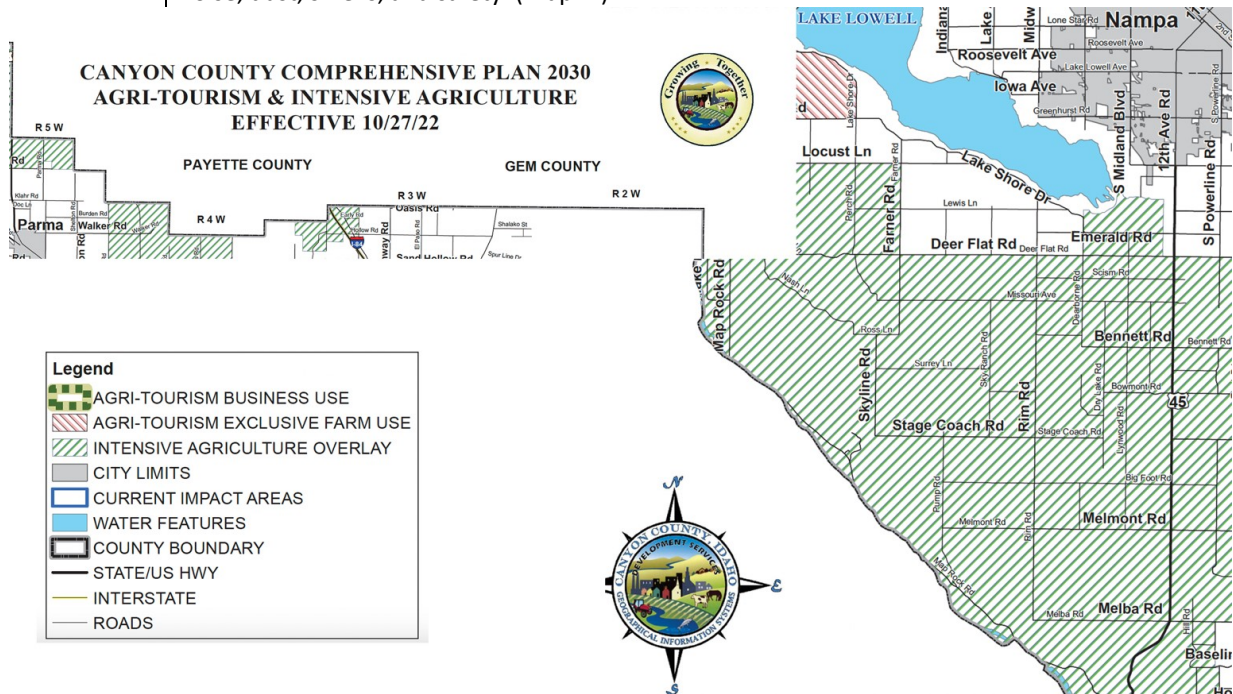


Figure 1. Canyon County Comprehensive Plan 2030 Agri-Tourism & Intensive Agriculture Overlay south of Lake Lowell.

Direct Impacts on Agricultural Operations in the Local Area

Residential development in the midst of productive agricultural land areas creates conflicts and imposes new burdens on neighboring agricultural producers, including, but not limited to:

- New weight and width restrictions on roads.
- Increased accidents between tractors/farm implements and vehicles.
- Inability in certain cases to spray chemicals to control and protect against plant disease and bug and rodent infestation has increased.
- Inability to grow certain seed crops due to proximity to new proximity to home gardens.
- Aerial spraying is nearly non-existent in this County due to new housing developments on spot zoned land (FAA Rules).

² Definition of Intensive Agricultural Overlay on page 28 of the 2030 Comprehensive Plan.

³ Map 2 on page 30 of the 2030 Comprehensive Plan

- The budgets of the Irrigation Company's have grown substantially due to labor costs associated with increased population and growth along the canal systems. Where ditch riders used to drive quickly and raise dust down the canals, now they must maintain the roads so that dust is mitigated or drive slow enough to reduce dust so that complaints are kept to a minimum.
- The complaints of people moving into the area not familiar to the smells associated with general farming practices, feedlots and dairies; and
- The flies associated with feedlots and dairy's keep these farms from being able to grow and or expand, because "new" neighbors aren't able to enjoy their patios because of all the flies and the smell from them.

The list goes on and the Idaho's Right to Farm policy does little to help the farmers, ranchers and dairymen when it comes to having to defend against all of these claims. These are truly just a few of the examples I've personally witnessed and heard over the last twenty years as a planner and local official of the impacts and changes to agriculture from introducing urban residential uses in the middle of the agriculture areas.

[Broader Impacts to the Canyon County Food Processing and Agricultural Economy](#)

The report by Philip Watson and Jason Winfree of the University of Idaho analyzes the economic impacts of agricultural land conversions in Canyon County, Idaho, specifically focusing on the consequences of converting agricultural lands to non-agricultural uses, such as residential development. The study employs agricultural data from the USDA's National Agricultural Statistics Service (NASS) and a customized economic model to estimate the direct and indirect effects on the agricultural base. The analysis begins with a case study of converting 164 acres of irrigated crop lands to residential development, revealing a total annual economic impact of \$522,000 in output and 5.1 jobs lost. The report emphasizes the irreversible loss of agricultural productivity and highlights the potential for additional lands to transition out of agricultural production because of such conversions.

Furthermore, it assesses the economic impacts of losing a large dairy processor, indicating substantial negative effects on economic output (\$320,000,000) and employment in Canyon County. The findings underscore the significant threat posed to the agricultural base of the county due to ongoing land conversions, emphasizing the need for careful consideration of the long-term consequences of residential development in agricultural areas.

[Loss of Productive Agricultural Land](#)

When incompatible residential uses are developed in primarily agricultural areas, it encourages what I call land use "creep", resulting in subsequent land use changes on neighboring properties. The following images illustrate this how this type of development impacts agricultural land use in Canyon County over time:

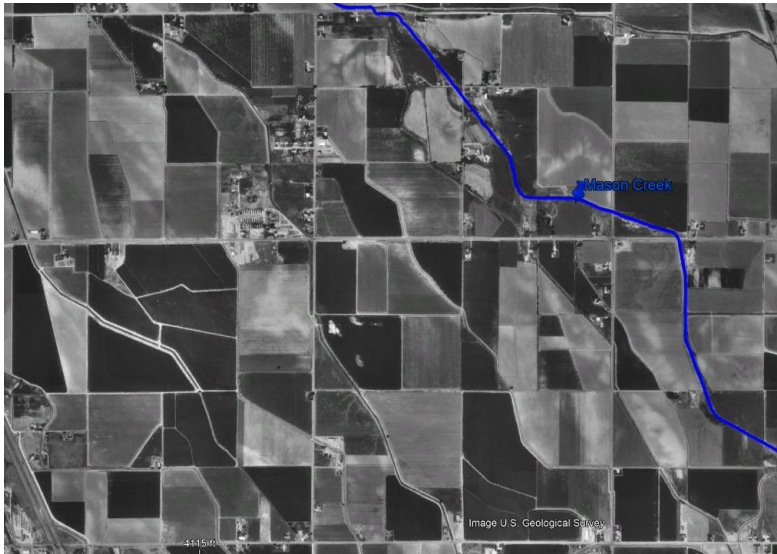


Figure 2: 1992 Google Earth image showing agricultural area in the Mason Creek Drainage north and south of Hwy 20/26.

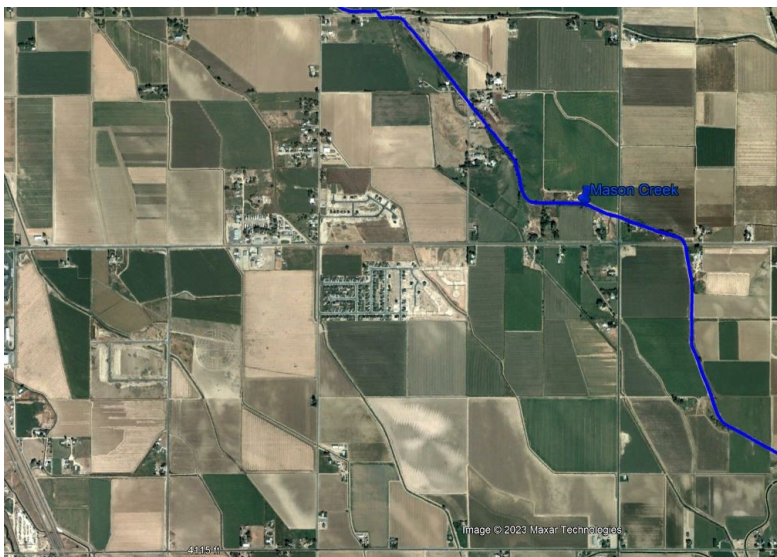


Figure 3: 2002 Google Earth image showing subdivision development in the midst of the agricultural area in the Mason Creek Drainage north and south of Hwy 20/26.

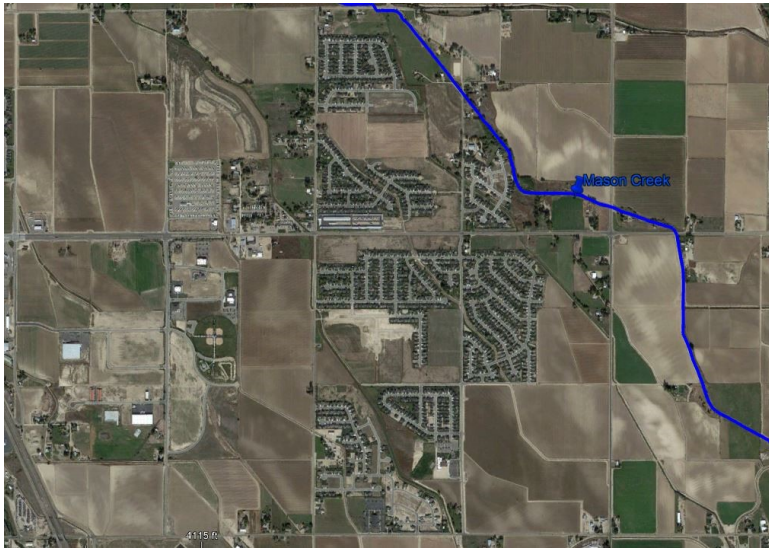


Figure 4: 2013 Google Earth image showing expanding subdivision development in the agricultural area in the Mason Creek Drainage north and south of Hwy 20/26.

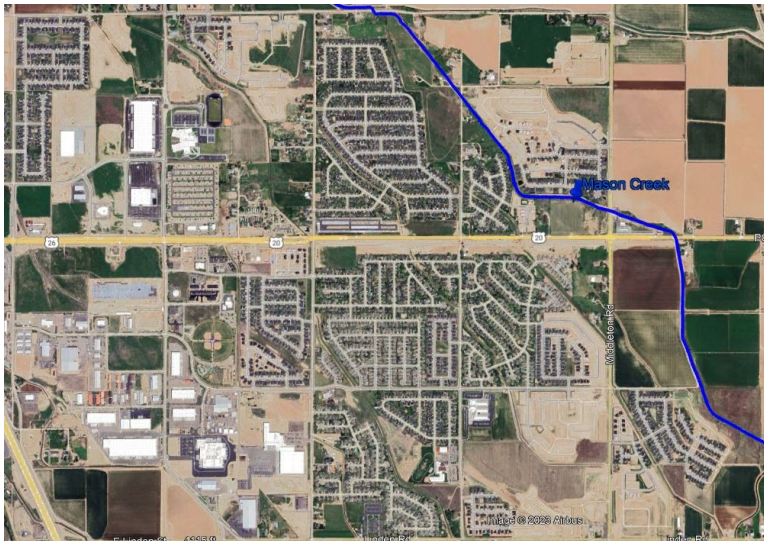


Figure 5: 2023 Google Earth image showing expanding subdivision development in the agricultural area in the Mason Creek Drainage north and south of Hwy 20/26.



Figure 6: 1992 Google Earth Image showing primarily agricultural areas, large fields with limited housing. West Canyon Elementary School is also depicted.



Figure 7: 2002 Google Earth. Primarily Agricultural, first new subdivision northeast of elementary school is shown. New Road on second subdivision is under construction near center of photo.



Figure 8: 2023 Google Earth image showing increased housing surrounding school, and new subdivision north of the 2002 subdivision, plus a new subdivision on the west side of the image.

Water Right Transfer Impacts

After a review of the IDWR Administrator’s Memorandum regarding Transfer Mitigation & Procedures (Dec. 21, 2009) defining a local area is important. In alignment with Canyon County’s 2030 Comprehensive Plan, I would define this local area as the agricultural belt south of Lake Lowell and west of Hwy 45, also shown as the intensive agricultural overlay area in Figure 1. I would further define the socio-economic area as all of Canyon County because it’s largest cities of Nampa and Caldwell have heavily recruited and sited many food processing facilities that rely on locally sourced products.

Determination of “local area” utilizing (3) b and c

Applicable boundaries of the local area may be determined by finding areas of socio-economic values and operations including the areas where agricultural processing facilities derive the agricultural products processed. The adjacent property to the proposed residential development and water right transfer is the Beranna Dairy and its associated crops that support the dairy. Within ½ mile, west of the subject property, is an active local feedlot owned and operated by the Water’s family. Within the same western area, ½ mile to 1 ½ miles away is McIntyre Farms who raise and sell grass fed beef, pork, lamb, and chicken to the local area and also have row crop farms to support their operations.

Does the change significantly affect the local agricultural base?

"Agrarian Lands"

A basis for determination is to "the degree to which agrarian lands are taken out of production." This local area of existing dairies, feedlots and farms are a major source of agricultural products that support local food processing facilities. These new businesses have located, grown and/or have expanded in the last two decades in our community and they rely on these producers to provide the local commodities/agricultural products to keep their doors open and staff employed (potential "agricultural job displacement" overtime). With very limited residential development in this local area, this is the largest of the agrarian land areas within the County, again as shown on "Map 2" of the 2030 Comprehensive Plan. Taking this land out of production and fragmenting such a significant area will see the long-term effects of residential sprawl.

Moving to the "country" has become one of the newest American Dreams across the nation. The appeal of rural living often lies in the desire for a slower pace of life, a stronger connection to nature, and a sense of community and is causing families across the nation to seek out these types of lots in the middle of pristine agriculture. However, it's not long before they find the truths about the agriculture industry. It's beauty lies in the eye of the beholder. I remember when I was young, I was complaining to my uncle who owns a feedlot about the smell. His response was perfect, "smells like money to me". Flies, dust, the loud sound of equipment running all through the night, chemicals and pesticides being sprayed, gophers and noxious weeds are just a few of the concerns that these new neighbors complain about.

If the change of use is allowed in the heart of this intensive agricultural area the current farms will inevitably have to change how they operate. Farming next to residential development puts the operators on defense as shown in just a few examples:

- Evaluations of distance between their structures and fields for land management is required.
- Aerial application of chemicals and pesticides is typically no longer an option depending on flight paths and new placement of residential structures.
- Certain seed crop capabilities are removed due to possible cross contamination.
- Pets associated with these rural residential developments often escape and trespass on neighboring farms digging holes, expelling waste and even disrupting settled cattle and other livestock.
- Sharing the road. These large agrarian land areas often allow farmers to easily move equipment throughout the day/night without safety concerns because new and impatient drivers are not used to driving alongside tractors and implements. New homeowners do not understand how speeds and stopping distances are greatly impacted.



Figure 9 recent example of incompatibility of new drivers on the roads from local farm family.

Once the neighbors realize that the American Dream comes with flies, dust, chemicals, and the other not so glamorous aspects of farming and ranching they begin to make complaints and/or attend future public hearings when existing (or new) confined animal feeding operations (CAFO) try to expand (or locate). All CAFO applications in Canyon County in the last twenty years included major opposition efforts from those new neighbors o the public hearings. The main concerns expressed are how the operations will (and do) disturb their quality of life; they are not compatible neighboring uses which is the pure essence of why Idaho adopted the Local Land Use Planning Act to grant authority for local communities to regulate incompatible uses through zoning.

“Financial Impacts on Others”

This requested change of use would significantly affect the ability of the farmers, dairyman, and ranchers to continue to grow and harvest the commodities, as previously grown for the reasons stated within this report. Introducing a residential subdivision in this area will significantly increase property values and property taxes⁴ in the local area. Contrary to popular belief, this is detrimental to the existing farmer, dairyman, and rancher’s ability to continue to grow and/or

⁴ https://sustainablecitycode.org/brief/subdivision-set-asides-for-agricultural-farmland/#_edn14

expand. It becomes a case of economics, a quick financial return on further developing adjacent lands to the new development because operational and financial changes of the farmer, rancher, or dairyman to operate as they had been pre-subdivision development.

It's often argued for the case of new development, that the new generations do not want to be farmers, ranchers or dairyman, but Canyon County has seen a significant increase in Millennial and Generation Z'ers trying to enter the agricultural market. The number one factor in their success is obtaining land at reasonable prices. When development is approved and built out, neighboring properties begin to be listed as "development protentional" or "development property". These speculative posts are almost always located on prime farm ground and are never priced at agricultural prices for the entitlements/property rights that exist on the property. Each of the surrounding existing farms (Beranna, Waters, McIntyre, and Western Farms) has younger generations actively involved in farming operations. Shifting property value and taxes in this area could easily start a domino effect of redevelopment causing the newest generation to not be able to afford to stay.

If IDWR approves the water right transfer and Canyon County allows the subdivision to move forward for residential use, it is my professional opinion that it will result in expansion of land use conversion, fragmentation of farmland and the continued loss of viable large scale agricultural areas.

I would encourage you to carefully consider that Canyon County has identified this local area as an intensive agricultural area. These areas need to be preserved, free from continued development pressure of incompatible residential uses. Our existing farmers, ranchers, and dairyman in the local area are the supply chain that drives our local economy for the local processing facilities. Please support the efforts and the will of Canyon County to support Agriculture.

Sincerely,

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

Keri K. Smith
Principal/Owner
Treasure Valley Planning Idaho, LLC