MEMORANDUM

DATE: February 22, 2008 Amended Application Processing No. 59

TO: Water Management Division

FROM: Gary Spackman

RE: Processing of Applications to Appropriate Water in the Lower Boise River Basin

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This memorandum replaces the original Application Processing Memorandum No. 59 issued in 1996.

Until further instructions are given, the following provisions apply to the processing of applications to appropriate water in the Boise River Basin (Administrative Basin 63) downstream from Lucky Peak dam.[1]

1. Surface water in the Boise River or tributary to the Boise River upstream from Star Bridge is fully appropriated during the irrigation season and during much of the rest of the year. As stated in the May 3, 1995, Amended Moratorium Order for the Boise River drainage:

   > Applications which propose use of surface water upstream from Star Bridge will be denied unless the applicant files an acceptable plan to mitigate or avoid any material injury to existing water rights.

2. Surface water in the Boise River or tributary to the Boise River downstream from Star Bridge is generally available for appropriation. Applications to appropriate surface water in this reach shall be evaluated on a case-by-case basis in accordance with applicable Idaho law and the Water Appropriation Rules.

3. The map on page 4 depicts an area in which ground water shallower than 200 feet below ground surface is probably tributary to the Boise River upstream from Star Bridge. New applications for consumptive uses of ground water in this area, including applications for municipal purposes, should be held without further processing unless one or more of the following conditions applies:

   A. The applicant demonstrates that the holders of water rights to divert from the Boise River will not be injured by the proposed appropriation or the applicant files an acceptable plan to mitigate for a water use that would otherwise cause injury to existing water rights from the Boise River.

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[1] For guidance regarding applications to appropriate water upstream from Lucky Peak Dam, see Application Processing Memorandum No. 13.

B. The application seeks the appropriation of ground water for domestic purposes as such term is defined in Idaho Code § 42-111.

C. The application seeks the appropriation of ground water for multiple ownership subdivisions or mobile home parks in which each unit satisfies the definition for the exemption of requirement to file an application for permit as described in Idaho Code § 42-111.

D. The application proposes to appropriate ground water deeper than 200 feet below ground surface. Applications meeting this criterion shall be evaluated on a case-by-case basis in accordance with applicable Idaho law, the Water Appropriation Rules, and the May 3, 1995, Amended Moratorium Order for the Boise River drainage.

4. Applications to appropriate ground water outside the area depicted in the attached map shall be evaluated on a case-by-case basis in accordance with applicable Idaho law, the Water Appropriation Rules, and the May 3, 1995, Amended Moratorium Order for the Boise River drainage.

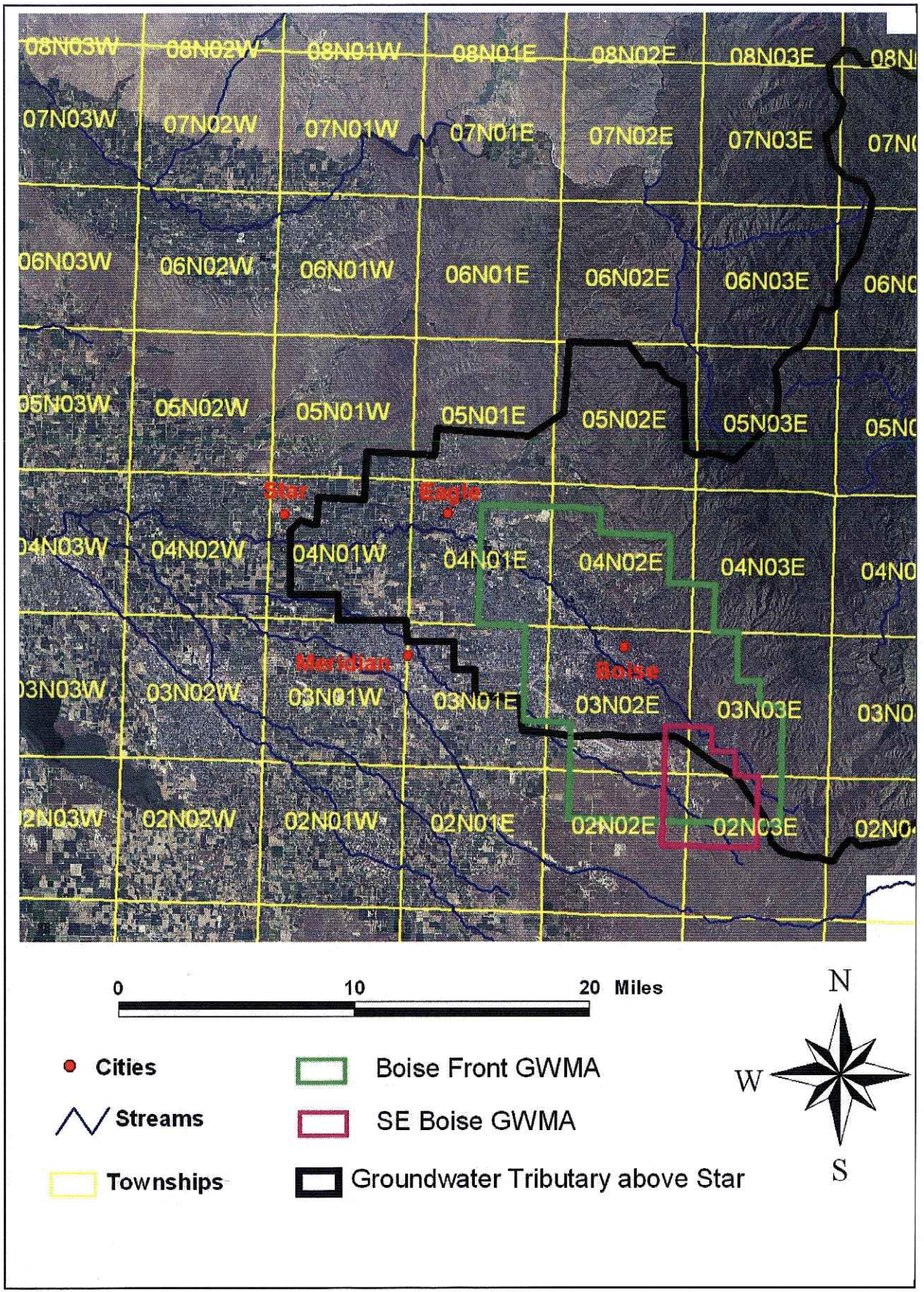
5. The May 3, 1995, Amended Moratorium Order for the Boise River drainage states that the advertisement for each ground water application shall include the proposed depth interval from which the applicant wants to withdraw water. IDWR will adhere to this advertising directive. However, the depth interval shall be required in the conditions of approval for permits only within the area where ground water shallower than 200 feet below ground surface is tributary to the Boise River, as shown on the attached map, or when otherwise deemed necessary by IDWR on a case-by-case basis. In the area where ground water shallower than 200 feet below ground surface is tributary to the Boise River, the depth interval shall be included in the conditions of approval for each ground water permit, regardless of whether the proposed depth is more or less than 200 feet below ground surface.

6. IDWR has established two ground water management areas, the Boise Front GWMA and the Southeast Boise GWMA, in the Boise River Basin. (See the map on page 4.) These instructions do not change, affect, or override instructions or management plans issued for the administration of water within any Ground Water Management Area or Critical Groundwater Area that is designated or may be designated within the Boise River Basin.

7. These instructions do not prevent the Director from reviewing for approval on a case-by-case basis an application which otherwise would not be processed and/or approved at this time if:

   A. The public interest, as determined by the Director, requires immediate consideration of approval of the application, or

B. The Director determines that the development and use of the water pursuant to an application will have no effect on prior surface and ground water rights because of its location, insignificant consumption of water, or mitigation provided by the applicant to offset injury to other rights.

8. Applications being held pursuant to the previous version of this memorandum shall be processed in accordance with this memorandum as time, resources, and competing priorities allow. The "thirty (30) applications for permit per month" limitation in the May 3, 1995, Amended Moratorium Order can be exceeded.

Map Depicting the Area in which Ground Water Shallower than 200 Feet Below Ground Surface is Tributary to the Boise River Upstream from Star Bridge.