

MEMORANDUM

Date: December 23, 2021
To: Transfer 83363
From: James Cefalo
Re: Review & Evaluation of Sufficiency of Information

Application 83363 proposes to create a digital service boundary for eighteen rights held by Taylor Canal Company. In 2017, Taylor Canal Company filed a Notice of Ownership Change, updating the ownership records for the eighteen rights now held by the company. The eighteen rights were originally decreed as private rights, held by individuals. For the last 100 years, however, the rights have been held by Taylor Canal Company and delivered collectively to the company shareholders. This application will update the rights to reflect the historical collective (company-wide) delivery of the rights. In combination, the rights authorize 1,300 acres of irrigation.

Authority to File: Taylor Canal Company is the owner of record for all 18 rights.

Water Right Validity: Water rights are valid. Delivery records for Water District 11F confirm historical delivery of the rights. The Taylor Canal Company rights are fairly junior on the Thomas Fork system. In many years, the rights are not sufficient to irrigate 1,300 acres.

Injury to Other Water Rights: No issues identified. Application was advertised and protested by Kirk Widmer. Mr. Widmer passed away and the protest was pursued by his wife, Janet. The primary issues of protest centered on internal company delivery issues and had little relevance to the transfer application. The company and Widmer wanted to resolve the protest through an agreement rather than go to hearing. It took over two years for the parties to reach an agreement. Protest was withdrawn in December 2021. Protest withdrawal asked for certain property held by Widmer to be included in the digital service boundary.

Watermaster for WD11F provided comments about general water delivery issues in the district but did not opposed the changes in Application 83363. State of Wyoming filed a letter of concern with IDWR. After consultation with Wyoming and the Bear River Commission, IDWR agreed to add a condition to all of the water rights noting that irrigation of lands in Wyoming requires separate authorization from Wyoming.

Enlargement of Use: No issues identified. Water rights have been delivered in full and used to irrigate as many acres as possible. Combined limit of 1,300 acres will be added to all rights.

Local Public interest: No issues identified.

Beneficial Use/Conservation of Water Resources: No issues identified.

Because the application proposes to include Wyoming lands in the digital service boundary for the company, the Department must conduct a review under Section 42-401(3), Idaho Code. In general there are no concerns with the proposed service area. The canal runs north to south down the state line and crosses from one side of the state line to the other. The analysis under the review criteria of Section 42-401(3) are as follows:

(a) The transfer will not affect the supply of water to other rights in Idaho. Any irrigated acres moved to Wyoming are upstream of Idaho and the Thomas Fork Valley. Unused water would return to Idaho.

(b) The ability to appropriate future water supplies in Idaho are limited by the terms of the Bear River Compact. If anything, moving acres outside of the state of Idaho may allow for some small amount of additional development in Idaho.

(c) The transfer will not affect the hydrology of the basin. Irrigated acres would move less than two miles over the state line and all surface or subsurface return flow would go back into the center of the valley - in Idaho.

(d) Shareholders in Taylor Canal Company irrigate lands in Idaho and Wyoming. In some cases, pivots cross state lines. Water diverted by Taylor Canal Company will be used by all shareholders in the company in proportion to the number of shares.

(e) Taylor Canal Company is a surface water company. The only surface water in the Thomas Fork Valley is in Idaho. There are no available surface water supplies in Wyoming.

(f) All water use in the Central Division is monitored and regulated by the respective states (Idaho and Wyoming).

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 or 42-401. Idaho Code preventing processing of this application.