

MEMO

TO: Don Barnett, Engineer-Manager for the Bear River Commission

FROM: JRC James Cefalo, Idaho Department of Water Resources

DATE: November 2, 2020

RE: Application for Transfer 83363 / Service Boundary for Taylor Canal Company

On June 17, 2019, Taylor Canal Company ("TCC") filed Application for Transfer 83363 with the Idaho Department of Water Resources ("IDWR"), proposing to create a common digital service boundary for the eighteen water rights held by the company. All of the water rights authorize diversion from the Thomas Fork at a point of diversion located in Idaho. The proposed service boundary would primarily cover land in Idaho, but would also include some land in Wyoming. Maps of the proposed service boundary are attached.

In Idaho, a digital service boundary for a canal company represents the area within which water from the canal company can be used. Every water right held by a canal company includes an irrigated acre limit. This irrigated acre limit continues to be the maximum irrigation authorization of the water right, even for a company that adopts a service boundary. For example, the eighteen water rights held by TCC, in combination, are limited to the irrigation of 1,300 acres. The proposed service boundary for TCC encompasses 7,450 acres (5,590 acres in Idaho and 1,860 acres in Wyoming). TCC's water rights will still be limited to the irrigation of 1,300 acres within the service boundary. The fact that acres are included in a canal company service boundary is not a guarantee that there are even company shares associated with the subject acres or that the acres can be irrigated with canal company water. The inclusion of Wyoming land in the proposed TCC service boundary does not mean that the Wyoming land will be irrigated with water from TCC.

During its initial review of Application 83363, IDWR discovered some discrepancies in the water right ownership records. It took TCC almost a year to address the ownership issues. Once the ownership of the water rights was confirmed, IDWR published notice of the application on May 27, and June 3, 2020. The application was protested by Kirk Widmer, a water user in the Thomas Fork Valley. The Widmer protest was resolved by making some minor modifications to the proposed service boundary. IDWR is still waiting for a copy of the documents confirming the settlement of the protested matter.

IDWR sent notice of Application 83363 to the state of Wyoming. On June 16, 2020, Greg Lanning, Wyoming State Engineer and Bear River Commissioner, sent a letter to IDWR outlining the concerns of the state of Wyoming and proposing language that could be added to the TCC water rights that would address those concerns. The letter stated:

The Taylor Canal Company proposed transfer includes Wyoming lands that are not currently irrigated with the subject Idaho water rights, and do not have a Wyoming water right associated with them. Accordingly, Wyoming may need to assign depletion amounts to any newly irrigated land in Wyoming. Wyoming is concerned that if the application is approved without adequately providing for Wyoming's need to assign and administer depletion amounts, it could potentially deprive other Wyoming water users of water to which they are entitled. . . . Because the proposed transfer contemplates the irrigation of new land in Wyoming, Wyoming must be able to account for and administer these depletions both to protect Wyoming water users and accurately account for its overall depletions.

[W]e believe that if IDWR approves Taylor Canal Company's application, a limitation or condition of the approval which adequately provides for Wyoming's need to assign and administer depletion amounts could protect Wyoming and its water users' interests.

I propose that Regional Manager Cefalo and Superintendent Payne work together to develop a limitation or condition that adequately addresses Wyoming's concern. They could then submit a proposed draft to the Bear River Commission at its next regular meeting for discussion and to ensure that any Compact issues are addressed.

Kevin Payne and I have discussed the transfer application and possible approval conditions for the TCC water rights. This memo has been prepared to summarize the application for the Bear River Commission and to propose a condition to be added to all of the TCC water rights to address the compact concerns described in Mr. Lanning's letter.

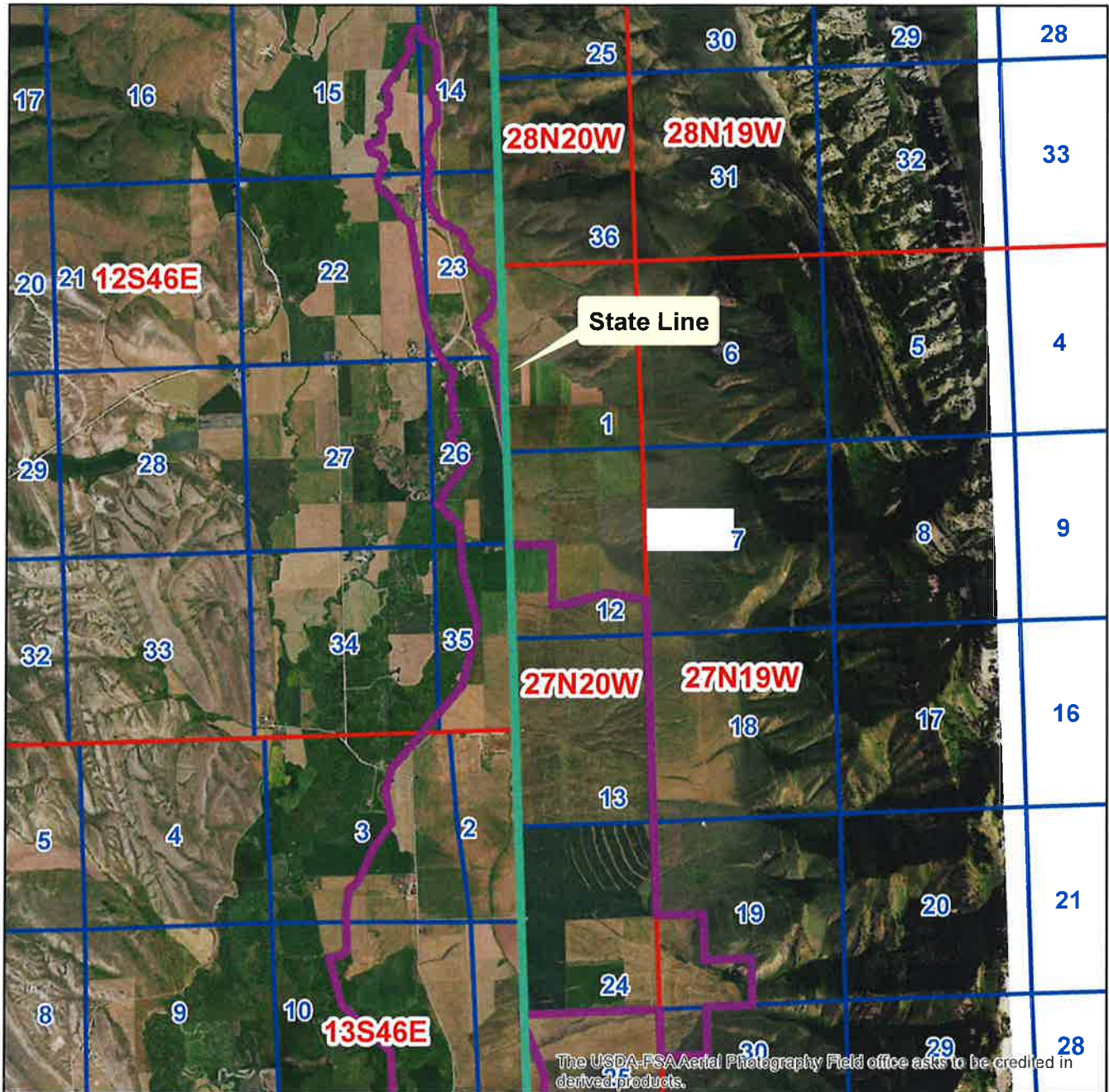
IDWR proposes to include the following condition on all eighteen of the TCC water rights:

Prior to diverting water under this right for irrigation of land in the state of Wyoming, the right holder or its shareholders must obtain authorization from the state of Wyoming for irrigation of the land in Wyoming.

IDWR believes that this condition will protect Wyoming's interest in recording and administering Wyoming's share of future depletions in the Central Division under the Amended Bear River Compact. If a water user were to irrigate land in Wyoming using the TCC water rights, without first obtaining authorization from Wyoming, the diversion would be in violation of the water right condition and could result in an enforcement action by IDWR.

If TCC water rights are used to irrigate land in Wyoming, the water rights would generally be diverted in Idaho and delivered to the TCC shareholders through the Taylor Canal. One water user at the end of the TCC system injects water into Raymond Creek in Wyoming and re-diverts the injected TCC water and other Raymond Creek water rights from ditches on Raymond Creek. The Raymond Creek diversions in Wyoming are already regulated by watermasters in Wyoming. Therefore, there would be no expected increase in water management sites for the Wyoming watermasters if Application 83363 were approved.

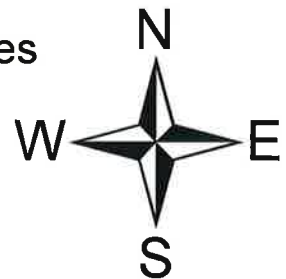
Proposed Service Boundary (North) Taylor Canal Company



0 1 2 Miles

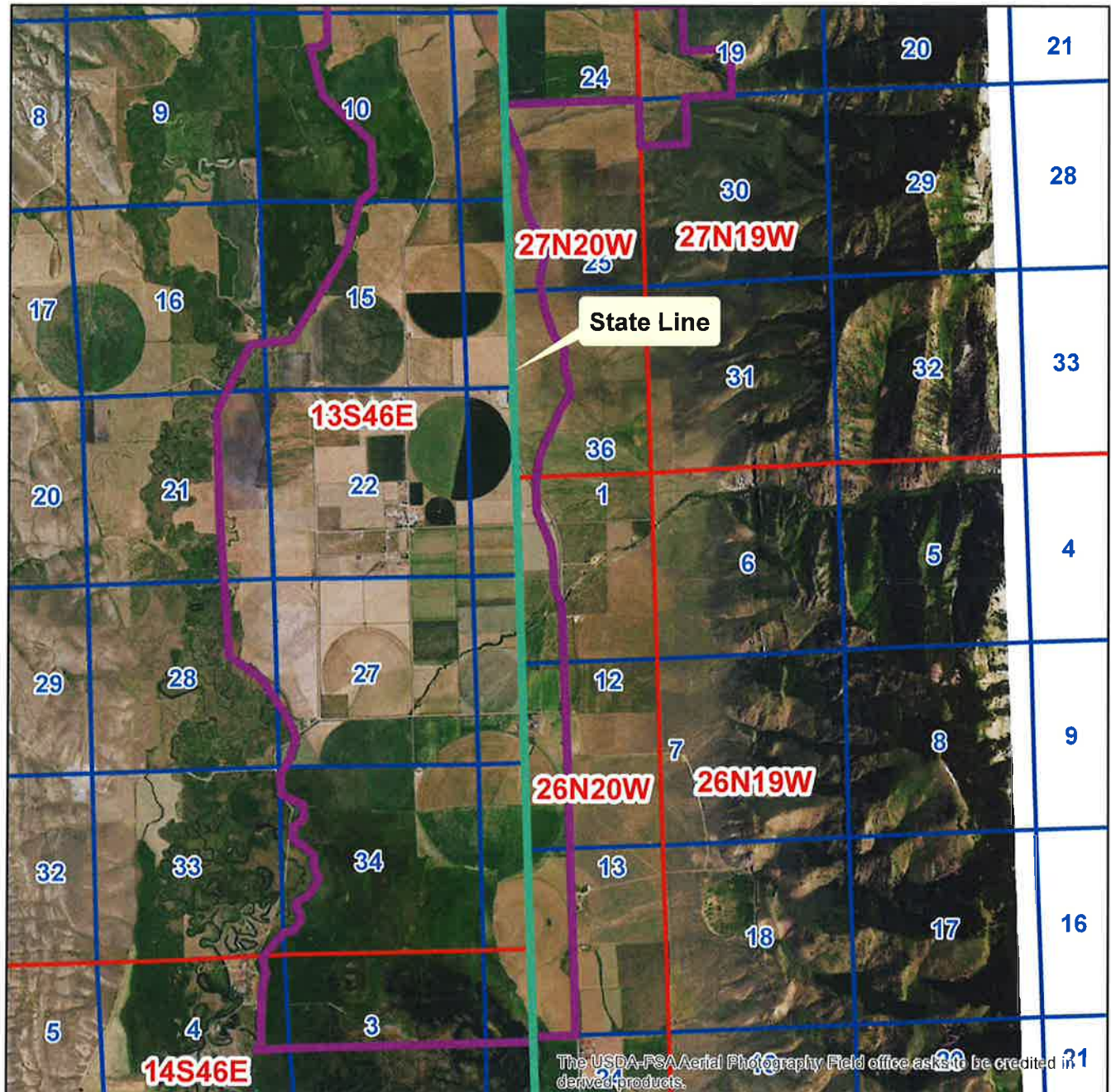
Legend

- Taylor_Canal_Service_Area
- Township/Range
- Sections

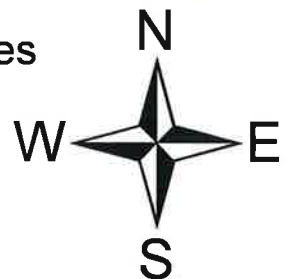


Date: 10/28/2020

Proposed Service Boundary (South) Taylor Canal Company



0 1 2 Miles



Legend

- Taylor_Canal_Service_Area
- Township/Range
- Sections

Date: 10/28/2020