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JUN 22 2020

DEPARTMENT OF
WATER RESOURCES
MARK GORDON
GOVERNOR

GREG LANNING
STATE ENGINEER

June 16, 2020

Gary Spackman
Director
Idaho Department of Water Resources
322 E Front Street, Suite 648
P O Box 83720
Boise Idaho, 83720-0098

RE: Taylor Canal Company Application for Transfer of Water Right
Transfer No. 83363

Dear Gary,

Superintendent Kevin Payne in our Cokeville field office received a letter dated May 20, 2020, from the Idaho Department of Water Resources regarding the Taylor Canal Company's application for transfer of water right, Transfer No. 83363. We appreciate being provided notice of the application since it includes land within Wyoming.

The application indicates that the purpose of the proposed transfer is to change the place of use of the identified Idaho water rights. Taylor Canal Company indicates that it "desires to establish a service area boundary of the place of use, excepting the place of use of water right no 11-147 as depicted in the attached map." The map attached to the application not only identifies lands in Idaho where use of the water is to be made, it also identifies lands in Wyoming. This letter relates to the Wyoming lands identified in the application.

The applicable lands and water rights are located in the Bear River Basin. As you are aware, the Bear River Compact provides that any water appropriated and placed to beneficial use after 1976 requires a depletion assignment to be issued by the state in which the use occurs. Further, the Procedures for Depletion Estimates adopted by the Bear River Commission in 2016 describe the depletion reporting requirements for new irrigated lands put into production since January 1, 1976. 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 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.

Board of Control
307-777-6178

Ground Water
307-777-6163

Interstate Streams
307-777-1942

Surface Water
307-777-6475

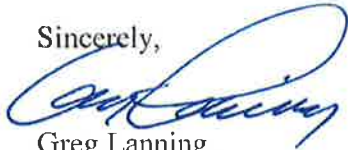
Article XI of the Bear River Compact contemplates applications for the change of place of use of existing water rights. However, such applications cannot be approved if the effect is to deprive any water users in another state of water to which they are entitled, or if the effect will be an increase in depletions beyond the Compact's authorized limits. 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.

Wyoming recently received an application for the enlargement of an existing Wyoming well to irrigate lands in Idaho. Although the lands had been historically irrigated from the well, Regional Manager James Cefalo and Superintendent Payne developed a limitation for that enlargement that ultimately required the water user to have the use recognized under Idaho law. Like that situation, we 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. I am confident that we can develop and agree upon limitation or condition language in the event IDWR approves Taylor Canal Company's application. Please let me know if this proposal is acceptable to you, or if you have an alternative proposal in mind.

Please feel free to contact Kevin Payne at (307)-279-3441 with any specific questions regarding this matter.

Sincerely,



Greg Lanning,
Wyoming State Engineer
Wyoming Bear River Compact Commissioner

cc: via email

Jody Williams, Chair, Bear River Compact Commission,
Todd Adams, Utah Bear River Compact Commissioner, toddadams@utah.gov
Don Barnett, Engineer-Manager, Bear River Commission, dbarnett@barnettwater.com
Kevin Payne, Water Division IV Superintendent, kevin.payne@wyo.gov
James Cefalo, Regional Manager, james.cefalo@idwr.idaho.gov
Randy Budge, Attorney for Taylor Canal Company, Inc., randy@racineolson.com