

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 81899**

This is to certify that: **BRUNDAGE WATER USERS ASSN INC**
PO BOX 333
NEW MEADOWS, ID 83654

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
78-2085	WR/DECREED	5/25/1936	N/A	3583.0 af	N/A	N/A	BRUNDAGE CREEK
78-7263A	WR/LICENSE	3/22/1985	N/A	2992.0 af	4520.0	16737.0	BRUNDAGE CREEK
78-7263C	WR/LICENSE	3/22/1985	N/A	300.0 af	N/A	128.0	BRUNDAGE CREEK

Purpose of Transfer (Changes Proposed)

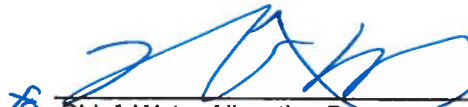
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
78-2085	NO	NO	YES	NO	NO	NO
78-7263A	NO	NO	YES	NO	NO	NO
78-7263C	NO	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
78-2085	78-2085	0.000 cfs	3583.0 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
78-7263A	78-7263A	0.000 cfs	2992.0 af	4520.0	16737.0	N/A	N/A	N/A	N/A	N/A
78-7263C	78-7263C	0.000 cfs	300.0 af	N/A	128.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		N/A	6830.0 af	N/A	N/A		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 6th day of November, 2017.



Chief, Water Allocation Bureau

SUPPORT DATA

IN FILE # 78-2085

Transfer No. 81899

WATER RIGHT NO. 78-2085

As Modified by Transfer No. 81899

In accordance with the approval of Transfer No. 81899, Water Right No. 78-2085 is now described as follows:

Right Holder: BRUNDAGE WATER USERS ASSN INC
PO BOX 333
NEW MEADOWS, ID 83654

Priority Date: 5/25/1936

Source: BRUNDAGE CREEK

Tributary: GOOSE CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION FROM STORAGE	04/01	to 10/31		3538.0 af
IRRIGATION STORAGE	01/01	to 12/31		3538.0 af
				3583.0 af

LOCATION OF POINT(S) OF DIVERSION

BRUNDAGE CREEK NESE Sec 30 Twp 20N Rge 03E ADAMS County

PLACE OF USE: IRRIGATION STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
20N	03E	17															X		
20N	03E	20		X	X		X			X	X	X	X	X		X			
20N	03E	29					X	X	X										
20N	03E	30	X		X	X									X	X			

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 5.0 afa per acre for irrigation storage and irrigation from storage for the place of use.
2. Prior to diversion of water under this right, the right holder shall provide a means acceptable to the department to measure the amount of water entering the reservoir and the amount of water released from the reservoir.
3. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 78C.

WATER RIGHT NO. 78-2085
As Modified by Transfer No. 81899

CONDITIONS OF APPROVAL

5. The boundary encompassing the place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.
6. The storage of water under this right is contingent upon continued certification by the Department of Water Resources under the dam safety provisions of the Idaho Code, authorizing storage.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 78-7263A
As Modified by Transfer No. 81899

In accordance with the approval of Transfer No. 81899, Water Right No. 78-7263A is now described as follows:

Right Holder: BRUNDAGE WATER USERS ASSN INC
 PO BOX 333
 NEW MEADOWS, ID 83654

Priority Date: 3/22/1985

Source: BRUNDAGE CREEK

Tributary: GOOSE CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION FROM STORAGE	05/01	to 10/01		2992.0 af
IRRIGATION STORAGE	01/01	to 12/31		2992.0 af
				2992.0 af

LOCATION OF POINT(S) OF DIVERSION

BRUNDAGE CREEK NESE Sec 30 Twp 20N Rge 03E ADAMS County

PLACE OF USE: IRRIGATION STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
20N	03E	17															X		
20N	03E	20		X	X		X			X	X	X	X	X		X			
20N	03E	29					X	X	X										
20N	03E	30	X		X	X									X	X			

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 4,520 acres within the authorized place of use in a single irrigation season.
2. This right when combined with all other rights shall provide no more than 5.0 afa per acre for irrigation storage and irrigation from storage for the place of use.
3. Prior to diversion of water under this right, the right holder shall provide a means acceptable to the department to measure the amount of water entering the reservoir and the amount of water released from the reservoir.
4. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
5. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 78C.

Transfer No. 81899

WATER RIGHT NO. 78-7263A
As Modified by Transfer No. 81899

CONDITIONS OF APPROVAL

6. The boundary encompassing the place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.
7. The storage of water under this right is contingent upon continued certification by the Department of Water Resources under the dam safety provisions of the Idaho Code, authorizing storage.
8. The period of use for the irrigation described in this approval may be extended to a beginning date of 4/1 and an ending date of 10/31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 5/1 and after 10/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 78-7263C**As Modified by Transfer No. 81899**

In accordance with the approval of Transfer No. 81899, Water Right No. 78-7263C is now described as follows:

Right Holder: BRUNDAGE WATER USERS ASSN INC
PO BOX 333
NEW MEADOWS, ID 83654

Priority Date: 3/22/1985

Source: BRUNDAGE CREEK

Tributary: GOOSE CREEK

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
IRRIGATION FROM STORAGE	05/01	to 10/01	0.000	300.0 af
IRRIGATION STORAGE	01/01	to 12/31	0.000	300.0 af
				300.0 af

LOCATION OF POINT(S) OF DIVERSION

BRUNDAGE CREEK	SESE	Sec 23 Twp 19N Rge 01E	ADAMS County	(I)
BRUNDAGE CREEK	NWNE	Sec 35 Twp 19N Rge 01E	ADAMS County	(R)
BRUNDAGE CREEK	NWSE	Sec 30 Twp 20N Rge 03E	ADAMS County	

PLACE OF USE: IRRIGATION STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
20N	03E	17															X		
20N	03E	20		X	X		X			X	X	X	X	X		X			
20N	03E	29					X	X	X										
20N	03E	30	X		X	X									X	X			

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 5.0 afa per acre for irrigation storage and irrigation from storage for the place of use.
2. Prior to diversion of water under this right, the right holder shall provide a means acceptable to the department to measure the amount of water entering the reservoir and the amount of water released from the reservoir.
3. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 78C.

WATER RIGHT NO. 78-7263C
As Modified by Transfer No. 81899

CONDITIONS OF APPROVAL

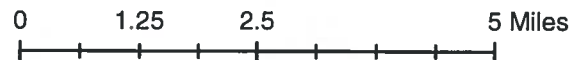
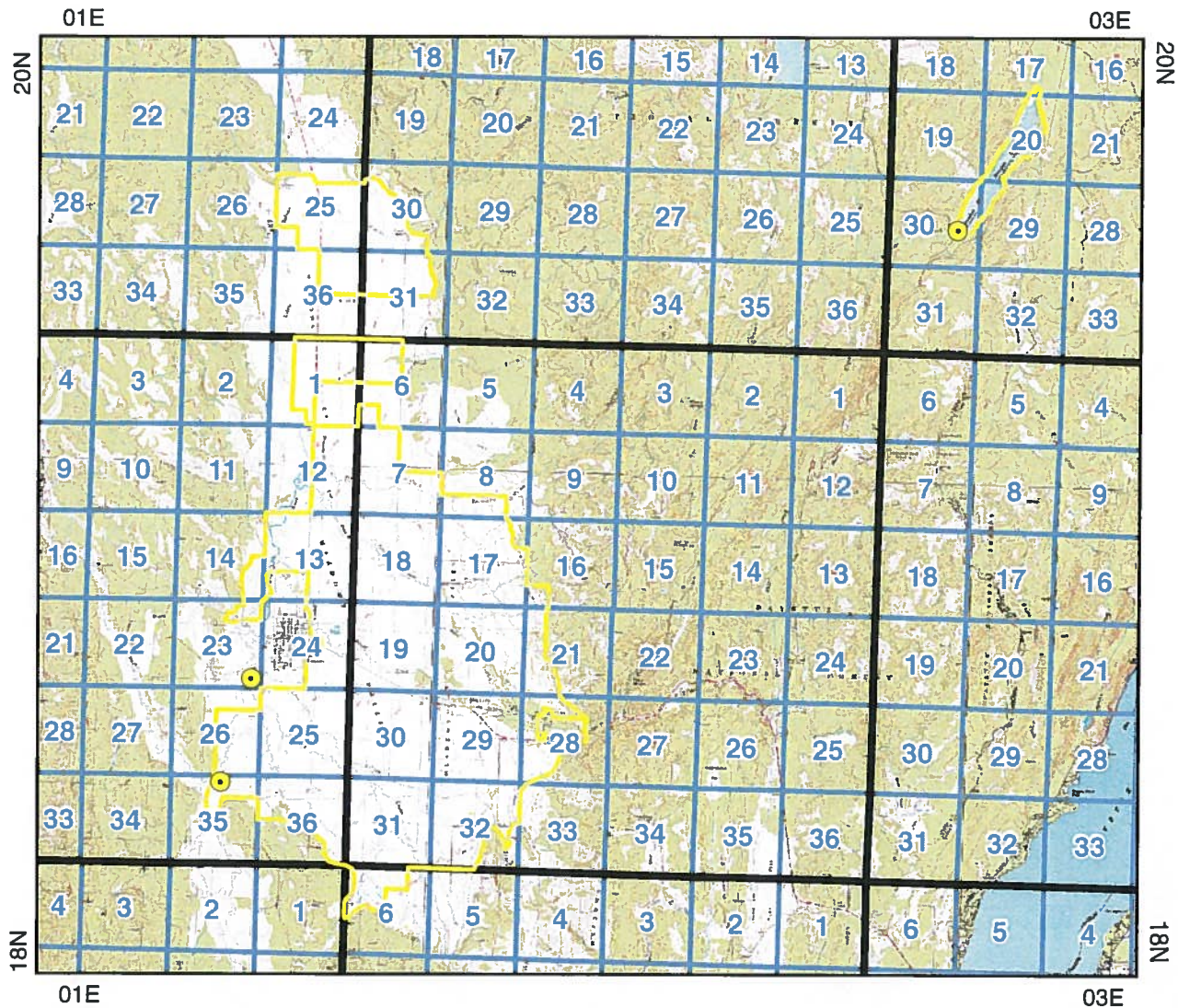
5. The boundary encompassing the place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.
6. This right is for the exchange of water released from Brundage Reservoir for water diverted from Little Salmon River.
7. The storage of water under this right is contingent upon continued certification by the Department of Water Resources under the dam safety provisions of the Idaho Code, authorizing storage.
8. The period of use for the irrigation described in this approval may be extended to a beginning date of 4/1 and an ending date of 10/31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 5/1 and after 10/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

State of Idaho
Department of Water Resources

Attachment to Water Right Transfer 81899

78-2085, 78-7263A and 78-7263C

This map depicts the IRRIGATION FROM STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 6, 2017

BRUNDAGE WATER USERS ASSN INC
PO BOX 333
NEW MEADOWS ID 83654

Re: Transfer No: 81899
Water Right No(s): 78-2085, 78-7263A , 78-7263C
Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 334-2190.

Sincerely,

 Rachel Neely for:

Nick Miller
Regional Manager

Enclosure

CC:

DANA PURDY
WATERMASTER OF DISTRICT 78C

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 81899
Water Right No(s): 78-2085, 78-7263A , 78-7263C

BRUNDAGE WATER USERS ASSN INC
PO BOX 333
NEW MEADOWS ID 83654

DANA PURDY
PO BOX 333
NEW MEADOWS ID 83654

TIM FARRELL
WATERMASTER OF DISTRICT 78C
20115 MARSING RD
CALDWELL ID 83607



Rachel Neely
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

State of Idaho

Department Of Water Resources

WATERMASTER RECOMMENDATION FORM

RECEIVED

OCT 24 2017

WATER RESOURCES
WESTERN REGION

Water District # 78-C

Application # 81899

Applicant Name Brundage Water Users Assoc

Watermaster Recommendation:

- a) X I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
- c) _____ I oppose approval of this application for the following reasons:
- d) _____ Additional comments:

Dated this 18 day of Oct, 2017

Timothy S. Farrell

Watermaster Signature

Timothy S. Farrell

Printed Name

MEMORANDUM

TO: Transfer No. 81899
FROM: Patrick Kelly
DATE: 9/14/2017
RE: Evaluation of Application

Summary of Information Submitted

This transfer proposes to update Brundage Water Users Assn water rights to reflect the desired service area. The purpose of the transfer is to increase the service boundary of the Company from 7,644 acres to 10,519 acres. According to the users, this will correct errors made during the adjudication process and include land owned by current shareholders.

The transfer application does not contain a POU description (Part 1(4)), but only a boundary map. This boundary was created by department staff during a meeting with representatives of the association. As authorized pursuant to 42-1411(2)(h): *"...if one (1) of the purposes of use is irrigation, then the number of irrigated acres within each forty (40) acre subdivision, except that the place of use may be described using a general description in the manner provided under section 42-219, Idaho Code, which may consist of a digital boundary as defined in section 42-202B, Idaho Code, if the irrigation project would qualify to be so described under section 42-219, Idaho Code."*

This project qualifies as it is a service area to more than 5 users and less than 25,000 acres. The transfer application is acceptable with only a defined digital boundary.

A combined use limit on 78-7263A states that all rights associated with Brundage Reservoir is 7,330 af. The three storage rights total 6,830 af. 78-7263B is a recreation storage right owned by the forest service for 500 af, so all four rights are additive and do not impose a combined volume limit.

78-7263C is an exchange right that diverts 300 af of storage water at the reservoir, pulls water from the Little Salmon River (rediversion) and injects the storage water back into the Little Salmon River (injection). This right currently serves land owned by Micki Eby and was filed because Brundage Water Users Association currently has no means available to get water to Ms. Eby's land at the southwestern most end of New Meadows Valley. 78-7263C will maintain a 300 af volume limit, and the transfer will allow the company to choose to either deliver it to Ms. Eby's land via rediversion, or deliver the 300 af elsewhere within their service boundary.

78-2085 was decreed in 2008 and does not currently identify an acre limit. A comment made in 2010 states: *Right was decreed in SRBA without an acre limit for the digital boundary. Prior to decree, the license was limited to 4520 acres. Omission of the acre limit was deliberate in SRBA, using the same methodology employed for BOR storage rights in the Boise River system. So it is not a typo or similar error in this case.* 78-7263A was licensed in 2014 with this 4,520 acre limit. Idaho Code 42-222 states in part: *"The transfer of the right to the use of stored water for irrigation purposes shall not constitute an enlargement in use of the original right even though more acres may be irrigated, if no other water rights are injured thereby."* This implies that a company could spread the same volume over more acres without creating enlargement. Because the transfer application does not seek to irrigate more acres changes to the limits (or lack thereof) will not be made to 78-2085 and 78-7263A. We are not attempting to determine the number of acres irrigated by the company and do not wish to impose a limit to what was decreed under 78-2085. The company is not seeking more acres in the transfer application, so the 4,250 acre limit on 78-7263A should not be removed.

Authority to File

The application was filed in the name of Brundage Water Users Association. Brundage Water Users Association is the current owner to all water rights relevant to the transfer. Dana Purdy and Micki Eby signed the application as President and VP. The company is registered with the ID SOS department (No. C19059).

Water Right Validity

Brundage Water Users Association is an active irrigation company that delivers water to its shareholders. Water rights used for the purposes of irrigation companies are not subject to forfeiture for non-use as long as they continue to provide water to their users. Concerns over validity are not present at this time.

Overlap Analysis

78-7263B is a recreation storage right at Brundage Reservoir owned by the forest service. No other rights with irrigation storage or irrigation from storage uses are pertinent to the project.

Injury to Other Water Rights

None anticipated. Changes to irrigation practices, delivery systems, or acres irrigated are not proposed. Users will have an opportunity to seek protest during the announcement period.

Enlargement of Use

The company proposes to extend the service boundary, but does not seek to add acres. All three rights are limited by an annual volume of 6,830 af that can be measured at the reservoir.

Local Public Interest

No information has been made available to suggest a conflict with public interest.

Beneficial Use/Conservation of Water Resources

The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.