

MEMORANDUM

TO: Transfer # 81494 File

FROM: Corey Skinner

DATE: October 31, 2017

SUBJECT: Review and Approval

Transfer # 81494 proposes splitting off a 0.36 cfs and 18.8 acre portion of water right 37-22019 and changing the place of use. The application was originally approved on May 30, 2017, but a petition for reconsideration was filed on June 13, 2017. The petition and conversations with the applicant's consultant indicated that the main item of concern related to the "surface water combined use conditions" (the following conditions) being implemented as part of the approval...

- *Use of this right is combined with water from Hiawatha Canal.*
- *The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right for land with an appurtenant surface water right(s) to those times when the surface water supply is not available or reasonably sufficient to irrigate the place of use authorized under this right.*

Right 37-22019 was decreed in the SRBA as an irrigation right for the irrigation of a specific 486 acres. The right was decreed in the names of the City of Hailey and the Hailey Cemetery Maintenance District. The specific 486 acre place of use for right 37-22019 is located within the service area of the City of Hailey's municipal water rights. The water right record prior to the transfer included the following condition...

- *Use of this right is combined with water from Hiawatha Canal.*

This particular condition was carried forward as part of the transfer approval on the portion of the right being transferred along with the other surface water/supplemental condition.

Examination of the City of Hailey's water right records indicates that they have one right from the Big Wood River (delivered via the Hiawatha Canal), 37-10717, that potentially overlaps the 37-22019 place of use. Right 37-10717 was decreed for municipal use within the City of Hailey service area, meaning it can be used anywhere within the city's service area.

During conversations with the applicant's consultant, it was indicated that Hiawatha (Big Wood River) water was never used in connection with right 37-22019. I indicated that if they could demonstrate that right 37-10717 (the only potential right that would warrant the Hiawatha water condition) was used somewhere else in the city and not on the 37-22019 place of use the Department would consider removing the supplemental conditions on the portion of the right being transferred. They indicated that they were confident they could provide information indicating that right 37-10717 was not used with 37-22019. I agreed to withdraw the transfer approval (see June 20, 2017 order) to allow them more time to gather the information.

This past month, the applicant's consultant provided information from the City of Hailey indicating that they use their Hiawatha water (37-10717) on three specific parks that do not overlap the 37-22019 place of use. This information seems reasonable since the three locations are located closer to the Hiwatha Canal than the 37-22019 place of use. In addition, it seems prudent for a city to use their surface water on different lands and in a separate system than those served by their groundwater system due to potential water quality concerns with mixing their surface/river water and groundwater.

Based on this new information, it is appropriate to reissue the transfer # 81494 approval without the surface water/supplemental conditions on the portion of the right being transferred.