

MEMORANDUM

Date: November 2, 2018
To: Transfer 81598
From: James Cefalo
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the point of diversion for water rights 35-7853B and 35-12912. The original application only included 35-7853B. 35-12912 was added to the transfer application through an amendment. Application was readvertised after amendment.

Water rights 35-7853B and 35-12912 cover the exact same 78 irrigated acres. 35-7853B was a license issued in the name of Ewald Funk. 35-12912 was a SRBA decreed right issued in the name of Vern Duffin. Property was owned by Funk, but was rented by Duffin for nearly 50 years. Due to an unfortunate series of events and bad timing, both Funk and Duffin ended up with water rights for the same beneficial use.

Authority to File: Application was filed by Peggy Simpson and Elizabeth Maland. They are included as current owners on water right 35-7853B. Simpson and Maland provided death certificates for Ewald Funk and Pearl Funk, the other current owners listed on 35-7853B. Ewald and Pearl Funk will be removed as water right owners. Simpson and Maland own the property at the existing place of use and proposed point of diversion.

Jeffrey and Chana Duffin are the current owners of record for water right 35-12912. Duffin protested the original application for transfer filed by Simpson and Maland. As part of the settlement of Duffin's protest, Simpson and Maland agreed to purchase right 35-12912 from Duffin. Duffin's withdrawal of protest states that Duffin will not object to any transfer application proposing to change the point of diversion for water right 35-12912.

Water Right Validity: Right 35-7853B was licensed in 1994. Right 35-12912 was decreed in 2002. Aerial photograph shows consistent irrigation. Forfeiture is not an issue.

Injury to Other Water Rights: No issues identified. Proposed point of diversion is located less than 1/2 mile from the existing point of diversion. Transfer tool analysis is not required because existing POD and proposed POD are within adjacent model cells. Proposed well is a new well to be constructed on the property owned by Simpson and Maland and will be used to irrigate the 78 acres authorized under rights 35-7853B and 35-12912.

Enlargement of Use: Water rights cover the same 78 acres. However, neither water right included a combined limit condition referring to the other right. Transfer approval will include a condition limiting the two rights to 78 acres and 312 acre-feet (4 af/acre). The rights did not include a combined rate limit and one will not be created through this transfer approval.

Local Public interest: No issues identified.

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

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