

MEMORANDUM

Date: December 1, 2017
To: Transfer 81988
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer changes the place of use and point of diversion for a five acre split portion of right 13-137.

Authority to File:

Based on the available evidence, the applicant, Betty Jo Mumford Family Trust, has the authority to file. At the time of transfer submittal, the water right was in the name of SS Hooker.

Deeds were provided linking the Betty Jo Mumford Family Trust with SS Hooker on the five acres being split and removed from the SESE of Section 15. Of note are instruments 79668 and 149893.

Instrument 79668 is a decree from the Fifth Circuit Court of Idaho. It granted the land to JH Taylor and Leah C Taylor from, among other defendants, SS Hooker, through quiet title action.

Instrument 149893 is a Warranty Deed conveying the land from Joshua H Taylor and Leah C Taylor to Gideon Eugene and Betty Joe Mumford.

"The G.E. Mumford Family Trust" was created by G. Eugene and Betty Jo Mumford on 12/12/1990 and amended on 11/24/1992. The Trust's creation was not recorded. It made reference to the land owned "as described by 'Schedule B'". "Schedule B" could not be located.

However, a "Schedule B" describing the land of the trust was located in Instrument No. 192561. That instrument, dated 12/30/1994, deeded the land from the G.E. Family Trust (termed the "Marital Trust") to Betty Joe Mumford as a Trustee of the G.E. Family Trust. "Schedule B" described a 19.5 acre parcel of land in the E 1/2 of the SESE of Section 15.

An "Affidavit and Acceptance of Trusteeship," Instrument No. 256830, dated 12/10/2012, allowed Ronald E. Mumford to sign for the G.E. Mumford Family Trust, created on 12/12/1990. This instrument followed Betty Jo Mumford's 2006 death.

Ronald E. Mumford signed the application.

Because the evidence suggests that Betty Jo and Eugene Mumford created a single trust, the Betty Jo Mumford Family Trust is considered the same as the G.E. Mumford Family Trust.

According to Franklin County taxlot data, Betty Jo Mumford owns the land from and onto which the water right is being rearranged.

The ownership of the water right will be updated after transfer approval.

The maps accompanying in this transfer make it appear as if some of the post-transfer place of use is in the NWSW of Section 14. This is due solely to the incomplete rectification of aerial photography and the PLSS grid in this corner of the state at the time of the transfer's approval. All of the irrigation will occur in the SWSW of Section 14.

Water Right Validity:

The water right is valid.

It was decreed in 1938.

Evidence available to the Department indicates that the right has been consistently used it was decreed.

Injury to Other Water Rights:

No other water rights will be injured as a result of this transfer.

The transfer was advertised and no protests were recieved.

Enlargement of Use:

No enlargement of use will result from this transfer's approval.

At the time of transfer submittal, the post-transfer place of use for the five acre split portion of 13-137 was covered by right 13-7128. This transfer, along with companion transfer 81989, swap the place of use for five acres each of water right 13-137 and 13-7128.

13-137 provides 0.02 cfs per acre, while 13-7128 provides 0.0067 cfs per acre. Upon the approval of the companion transfers, the five acres covered by the split portion of 13-137 contemplated in this transfer will be sold.

Rate, volume, nor irrigated acres are authorized to increase.

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.