

Douglas J. Balfour, Chartered

230 W. Lewis

P.O. Box 490

Pocatello, ID 83204-0490

Phone: 208-233-0680

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RECEIVED

NOV 21 2017

Department of Water Resources
Eastern Region

November 21, 2017

James Cefalo
Water Master
Idaho Department of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Sent Via Email

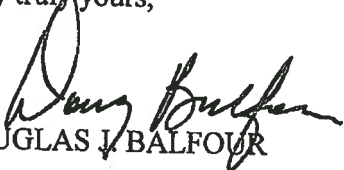
RE: Application for Transfer of Water Right 35-12912

Dear Mr. Cefalo:

Attached with this letter is a Notice of Protest, which has been signed by Peggy Simpson and Elizabeth Maland, along with a three page attachment for explanation.

Please contact me if you have any questions concerning this.

Very truly yours,


DOUGLAS J. BALFOUR

DJB/eg
attachments
c Rob Harris

Receipt
1043583

Douglas J. Balfour, Chartered

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NOV 29 2017

Department of Water Resources
Eastern Region

November 27, 2017

Idaho State Government
Water Resources Department
900 N. Skyline Dr., Ste. A
Idaho Falls, Idaho 83402

RE: Notice of Protest/Water Right 35-12912

Enclosed with this letter is our law firm check in the amount of \$25.00, to represent the filing fee for our Notice of Protest in this matter.

Very truly yours,



DOUGLAS J. BALFOUR

DJB/eg
enclosure

Receipt
#EO 43583

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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NOV 21 2017

Department of Water Resources
Eastern Region

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, and 42-222, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested APPLICATION FOR TRANSFER OF WATER RIGHT 35-12912
2. Name of protestant PEGGY SIMPSON and ELIZABETH MALAND
3. Protestant's Representative for service (If different than protestant)
DOUGLAS J. BALFOUR
4. Service mailing address SEE ATTACHED
5. Service telephone no. SEE ATTACHED Email Address: SEE ATTACHED
6. Basis of protest (including statement of facts and law upon which the protest is based)
SEE ATTACHED
- (additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? SEE ATTACHED

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 15 day of November, 2017

Protestant

Protestant's Representative

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

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NOV 21 2017
Department of Water Resources
Eastern Region

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Signed this 14 day of November, 20 17.

Peggy M. Simpson
Protestant

Protestant's Representative

Under 4. Service mailing address:

Peggy Simpson: 512 Sheridan Road, Walla Walla, WA 99362
Elizabeth Maland: 2037 Crawford, Drive, Walla Walla, WA 99362

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NOV 21 2017
Department of Water Resources
Eastern Region

Under 5. Telephone numbers:

Peggy Simpson: 509-301-9122
Elizabeth Maland: 509-301-4215

Email address: Peggy Simpson: simpson68@gmail.com
Elizabeth Maland: malande@wwics.com

Attached to this Protest is the Beneficial Use Field Report from the Department of Water Resources dated November 7, 1994. In that Report the Department of Water Resources noted that "If the agreement is disbanded, Mrs. Funk could extend the mainline from her well." This specifically addresses Water Rights 35-7853B, and notes that the system is owned and operated by Vern Duffin, but this arrangement is by agreement between Mrs. Funk and Mr. Duffin.

The Agreement is abandoned and the Department of Water Resources has recognized that in such a case, Pearl Funk was entitled to use her own well, as a point of diversion.

The land currently irrigated by Water Right 35-7853B, is also the land shown in the Department's records as being irrigated by Right 35-12912. Under 5F of the Application, Water Right 35-7853B is not listed as a Water Right impacted from the existing point of diversion. Water Right 35-7853B has been used to irrigate the Duffin/Maland property for many years, as is shown by the Affidavit of the secretary of the Aberdeen-American Falls Groundwater Users Association, Pam Warner. The owners of Water Right 35-7853B have applied to move the point of their diversion from Mr. Duffin's well to their own land, the land that has been used to irrigate under Water Right 35-12912.

In February of 2016, the owners of Water Right 35-12912, Vern and Marilyn Duffin, transferred this Water Right to Jeffrey and Chana Duffin. The claim form indicated that the Water Right is free from claims or encumbrances. However, the Department noted that Water Right 35-12912 is stacked with Water Right 35-7853B and therefore there is an encumbrance.

Under 7. What would resolve your protest? The easiest way would be for the Department of Water Resources to grant the application to move Water Right 35-7853B from the existing point of diversion, the Duffin well, to a well owned by Simpson and Maland. If that were done, the Protestants would not care about the transfer of Water Right 35-12912 to the Monty Funk farm. The Water Rights should be unstacked.

Form 219
6/86

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NOV 7 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

Department of Water Resources

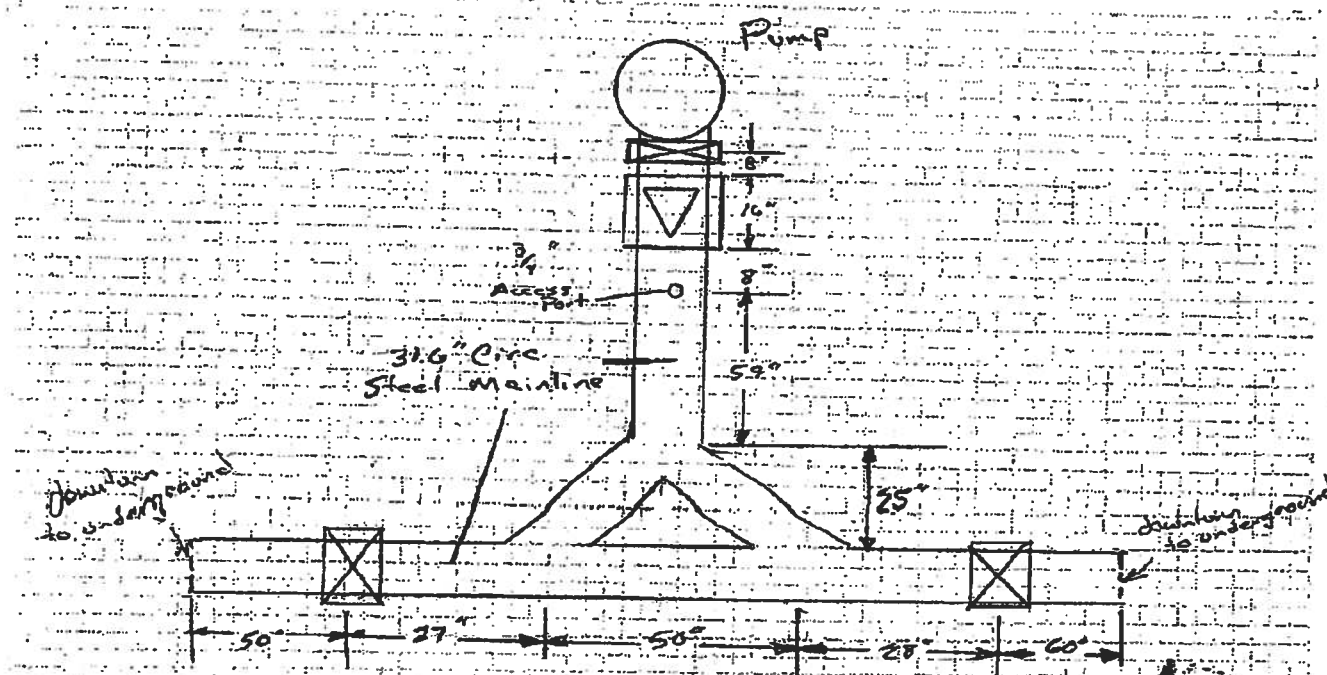
A. GENERAL INFORMATION

1. Owner: EWALD FUNK & PEARL FUNKPermit No. 35-2853 ACurrent Address: Box 390 Athena, Oregon 97813Phone No. (509) 529-39032. Accompanied by: EWALD & PEARLEXAM. DATE: 10-1-1990Address: SamePhone No. SameRelationship to Permit Holder: Same3. Source: Groundwater tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: NONE☐ Copies Attached2. Other water rights with same point of diversion: Well in SW 1/4 SW 1/4 Sec. 15 LICENSED UNDER 35-02485☒ Copies Attached☒ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. Diversion System Diagram: Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached

Scale: 1" = _____

2. ☒ Copy of U.S.G.S. Quadrangle Attached
Showing location(s) of point(s) of diversion and
place(s) of use (required).☐ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater.☒ Aerial Photo Attached
(required for irrigation of 10 acres or more).

DEC 29 1994

3. Narrative: Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

#3 (Part A) Well pump mainline to 2-center pivots:

East Pivot	: 360°	10 tower w/ end gun	SW 1/4 Sec. 14
West Pivot	: 180°	10 tower w/ end gun	E 1/2 SE 1/4 Sec. 15

WEST WEL - WELL, PUMP, MAINLINE TO WHEEL LINES. W¹/₂ SE¹/₄ SEC 15. THIS SYSTEM
(Part B) IS OWNED AND OPERATED BY VERN DUFFIN. THIS ARRANGEMENT IS BY
AGREEMENT BETWEEN MRS. FUNK AND MR. DUFFIN. IF THE AGREEMENT
IS DISBANDED, MRS. FUNK COULD EXTEND THE MAINLINE FROM HER WELL

☒ See Remarks on page 4 for continuation

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
#3	Newman	150	444TPH	Layne & Bowler	10"
Duffin well	US Motor	125	1056837	Layne	10" discharge
Booster	Marathon	75	460 PWS	Cornell	6RB75-41

*Code to correspond with No. on map and aerial photo

**Code to correspond with No. on map and aerial photo*

[illegible]

Indicate Method of Determination

[illegible]

HARRY MEYER

DEC 29-1994

Do not use this space