

MEMORANDUM

Date: July 12, 2017
To: Transfer 81722
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This is one of two transfers submitted simultaneously involving ground in Sections 14 and 15, Township 14 South, Range 38 East.
This transfer proposes to move a 10 acre portion of right 13-137. The second transfer, Transfer 81734, rearranges overlapping right 13-7128.

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 10 acres being 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.

Ron 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 rights will be updated after transfer approval.

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 since 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 occur as a result of this transfer.

At the time this transfer was submitted, rights 13-137 and 13-7128 overlapped on the 10 acre portion of 13-137 that this transfer relocated. Together, the rights combined for 180 acres.

Transfer 81734 reduces and rearranges right 13-7128's place of use.

Upon approval of this transfer and companion transfer 81734, the two rights will cover a total of 165 acres, but will no longer overlap.

The 1938 decree did not indicate a season of use. A standard season of use was placed on the split portion of the right.

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.