MEMORANDUM

Date: June 4, 2007

To: Transfer 73515 File

From: Corey Skinner

Re: Evaluation of Sufficiency of Information Submitted

Application proposes moving a 0.05 cfs & 2.3 acre portion of groundwater irrigation right 37-7385B, currently authorized to be diverted from a well located approximately 10.7 miles west and 4.75 miles north of Gooding, to a 4.1 acre permissible place of use located at the northwest edge of Gooding. Note that right 37-7385B, has been split into five pieces (37-22164, 37-22165, 37-22166, 37-22167, and 37-22168) prior to the transfer data entry work in preparation for this transfer and three companion transfers (# 73516, # 73517, and # 73518). Three wells located on the proposed permissible place of use will serve as the authorized diversion points for the portion of the right being transferred. Note that at least some of the wells were drilled as domestic wells so the well drilling section should be notified so that well drilling fee upgrades can be solicited. The wells involved with the transfer are located within the ESPA and within Water District 130. Also note that a portion of right 37-7385B has been moved to the same property through the water supply bank process (application approved earlier this year).

- **Authority to File:**
  The application includes a copy of a contract of sale for the portion of the water right being transferred. The contract lists the applicant as the buyer and the current owners of record as the seller. In addition, the applicant has provided deeds showing he owns the proposed place of use.

- **Water Right Validity:**
  The right involved with the transfer has been decreed in the SRBA in December of 2002 and was subject to previously approved transfer 69896 (approved 2/18/2003).

- **Injury to Other Water Rights:**
  None anticipated. The application includes a groundwater model analysis that shows that the net impact of this proposed transfer, combined with the three companion transfers, results in some negative impacts to reaches of the Snake River, but these net impacts are significantly less than 1.0 ac-ft per trimester.

- **Enlargement of Use:**
  At first glance, right 37-7385B appears to be stacked with Bray Lake storage rights at the current place of use as a result of transfer 69896 (approved 2/18/2003). Prior to transfer 69896, right 37-7385B was a stand-alone primary irrigation right before being placed in a PPU with other rights involved with transfer 69896. In addition, the only overlap is with the diversion from storage components of rights 37-856 and 37-2780. The concern with unstacking rights is the potential enlargement of the remaining rights when a right is unstacked and moved to another location. In this particular case, the only potential enlargement is with the diversion from storage components of rights 37-856 and 37-2780. Note that 42-222, Idaho Code, allows for the enlargement of stored water rights used for irrigation purposes, even though more acres may be irrigated. There also appears to be an issue with two late SRBA claim filings (filed after the pending transfers) and their subsequent recommendations. The particular recommendations are for rights 37-21961 and 37-21962 which are direct flow rights that have a recommended place of use that overlaps the 808 acre permissible place of use created by previously approved transfer 69896. These rights have individual acre limits (93 acres for 37-21961 and 330 acres for 37-21962) and a combined limit condition limiting rights 37-2778, 37-7385B, 37-7754, 37-21961, and 37-21962

to 679 acres. However, there is not a specific condition indicating exactly what rights 37-21961 and 37-21962 actually overlap with. Historically, groundwater right 37-7385B was developed and used separately from any surface water rights (prior to transfer 69896 approved 2/18/2003). It is obvious due to the history of these rights that rights 37-21961 and 37-21962 actually should overlap with the other surface rights, rather than any portion of groundwater right 37-7385B. A letter was sent to the current owners of rights 37-2778, 37-7385B, 37-7754, 37-21961, and 37-21962 indicating that a condition needed to be added to the surface water rights (37-2778, 37-7754, 37-21961, and 37-21962) limiting them to 555 acres and insuring that the groundwater right (37-7385B) was separate and independent and could be transferred without reducing the surface water rights. The owners agreed to the condition, which will be added to rights 37-2778, 37-7754, 37-21961, and 37-21962 as part of this transfer to prevent possible enlargement of the surface rights.

- **Local Public Interest:**
  Application will be subject to public notice and protest.

- **Beneficial Use/Conservation of Water Resources:**
  Proposed use is recognized as a beneficial use of water.

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.