

MEMORANDUM

Date: May 14, 2013

To: Transfer Nos. 65416, 65886 and 68302

From: Jeff Peppersack

Re: Timeline and Completion of Transfers

Due to the extended timeframe and numerous filings and orders in these contested cases, the final disposition of each case may be unclear. This memo provides a short summary of activity and conclusion for each case.

Transfer Nos. 65886 (old no. 3223) and 68302 (old no. 4596) – filed by City of Preston

Application 65886 filed on January 12, 1984 to change POD, POU and nature of use for water right 13-26C.

Application 68302 filed on April 14, 1995 to change POD, POU and nature of use for water right 13-34.

Transfers approved on November 9, 2001. Right 13-34 was split into parts A and B through transfer no. 68302.

City of Preston filed petition for reconsideration on November 27, 2001.

Department granted petition for reconsideration on November 28, 2001 to review the issues.

Department issued amended transfer approvals on August 13, 2012.

City of Preston filed petition for reconsideration of the amended transfer approvals on August 28, 2012. City of Preston filed request for hearing on August 29, 2012.

The Department granted the request for hearing and denied the petition for reconsideration on September 6, 2012.

City of Preston filed petition for reconsideration of the order granting hearing and denying petition for reconsideration on September 20, 2012.

Department issued a preliminary order on October 12, 2012 confirming the status of the November 9, 2001 transfer approvals as final orders of the Department based on a Supreme Court decision.

City of Preston filed a petition for reconsideration of the October 12, 2012 order on October 26, 2012. The Department did not respond to the petition, instead allowing it to become denied by operation of law on November 16, 2012.

City of Preston filed exceptions and brief to the Department's October 12, 2012 order on November 30, 2012.

Department issued final order on January 25, 2013 confirming the effectiveness of the November 9, 2001 transfer approvals.

City of Preston filed a petition for reconsideration and request for hearing of the Department's January 25, 2013 order on February 8, 2013. The Department did not respond to the petition for reconsideration.

Paul Arrington of Barker Rosholt & Simpson contacted the Department in February 2013 on behalf of City of Preston to discuss issues related to the transfers.

Deputy AG Garrick Baxter contacted Paul Arrington on May 10, 2013 to inquire regarding any further action needed for the transfers. On May 13, Paul Arrington responded that he was not aware of any further action necessary.

This memo documents that the Department is taking no further action on the transfer approvals other than updates to Department records based on current status.

Dept. records should be updated to show the transfers as approved on November 9, 2001. Water right 13-26C is owned by City of Preston. Water right 13-34A is owned by Cub River Irrigation Co. Water right 13-34B is owned by City of Preston.

Transfer No. 65416 (old no. 2753) – filed by Cub River Irrigation Co.

Amended Application filed in May, 1995 to change POD, POU and nature of use for water right 13-34A and portion of 13-26A.

Transfer approved on November 9, 2001. Right 13-26A was split into parts C and D through transfer no. 65416.

City of Preston filed petition for reconsideration on November 27, 2001.

Department granted petition for reconsideration on November 28, 2001 to review the issues.

Department issued amended transfer approval on August 13, 2012.

City of Preston filed petition for reconsideration of the amended transfer approvals on August 28, 2012. City of Preston filed request for hearing on August 29, 2012.

Department issued a preliminary order on September 6, 2012 confirming the status of the November 9, 2001 transfer approval as a final order of the Department because the City of Preston was not a party to the transfer proceeding. The Department denied the petition for reconsideration and the request for hearing.

City of Preston filed a petition for reconsideration of the September 6, 2012 order on September 20, 2012. The Department did not respond to the petition, instead allowing it to become denied by operation of law on October 11, 2012.

City of Preston filed exceptions and brief to the Department's September 6, 2012 order on October 26, 2012, one day late for consideration.

No appeals to District Court were filed.

This memo documents that the Department is taking no further action on the transfer approval other than updates to Department records based on current status.

Dept. records should be updated to show the transfer as approved on November 9, 2001.