

RECEIVED

FEB 11 2013

DEPARTMENT OF
WATER RESOURCES
Received via fax
2-8-13 SK

Josephine P. Beeman (#1806)
BEEMAN & ASSOCIATES, P.C.
409 W. Jefferson St.
Boise, ID 83702
Phone: (208) 331-0950
Fax: (208) 331-0954
jo.beeman@beemanlaw.com

Attorneys for the City of Preston

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION
FOR TRANSFER NOS. 68302 AND
65886 IN THE NAME OF CITY OF
PRESTON

**CITY OF PRESTON'S PETITION FOR
RECONSIDERATION OF IDWR'S
JANUARY 25, 2013 FINAL ORDER**

The City of Preston, by and through its attorneys, Beeman & Associates, P.C., respectfully submits the following Petition for Reconsideration of the Idaho Department of Water Resources' (IDWR) January 25, 2013 *Final Order* which was also served January 25, 2013. The petition must be received by IDWR within fourteen (14) days of January 25, 2012, no later than February 8, 2013. If IDWR does not act on this petition for reconsideration by Friday, March 1, 2013 (within twenty-one (21) days of February 8, 2013), the City of Preston understands that the petition will be considered denied by operation of law, and that an appeal to district court must be filed by Friday, March 29, 2013.

The City of Preston respectfully incorporates the arguments presented in its two prior filings:

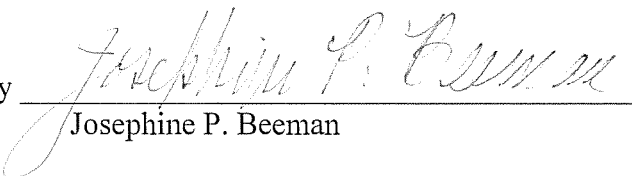
1. The City of Preston's October 26, 2012 Petition for Reconsideration Of IDWR's October 12, 2012 Preliminary Order Confirming Status Of Transfer Approvals As Final Orders Of The Department; and
2. The City of Preston's November 30, 2012 Exceptions And Brief Following Denial Of City's Petition For Reconsideration Of IDWR's October 12, 2012 Preliminary Order Confirming Status Of Transfer Approvals As Final Orders Of The Department.

In addition, the City notes that IDWR did not respond to the following argument regarding the party status of the City of Preston, October 26, 2012 Petition, page 2 (see IDWR January 25, 2012 Final Order, page 4, fn2):

[T]he history demonstrates that the City of Preston and Cub River I.C. were both involved in transfers at the same time affecting water rights 13-26 and 13-34; all transfers arose from the City's purchase of water rights out right or purchase of Cub River I.C. shares for the same water rights. The City's money and water use were common to the three transfers. A single agreement, signed by Cub River I.C. and Preston, was filed to resolve protests in all three proceedings. IDWR issued common orders for all proceedings and held joint proceedings. *Laughy v. Idaho Department of Transportation*, 149 Idaho 867, 874, 243 P.3d 1055, 1062 (2010) addressed a single proceeding, not joint proceedings with the same *gravamen* – water rights 13-26 and 13-34.

RESPECTFULLY SUBMITTED this 8th day of February 2013.

BEEMAN & ASSOCIATES, P.C.

By 
Josephine P. Beeman

CERTIFICATE OF SERVICE

I certify that this 8th day of February 2013, I caused a true and correct copy of the foregoing document to be served on the following by U.S. Mail.

Robert Harris
Holden Kidwell
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, ID 83405-0130

Randy Budge
Racine Olson
201 E Center, Suite A2
PO Box 1391
Pocatello, ID 83204

Jeff Peppersack
IDWR
322 E. Front Street
P. O. Box 83720
Boise, ID 83720-00098

Mervin J. Bodily
Cub River Irrigation Co.
P.O. Box 215
Lewiston, UT 84320

Kirk Iverson
Watermaster
2724 S. 1400 W.
Preston, ID 83263

City of Preston
70 W. Oneida
Preston, ID 83263

Clyde G. Nelson
P.O. Box 797
Soda Springs, ID 83276-0797



Josephine P. Beeman