

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF WATER RIGHT NOS.)
13-26C, 13-26D, 13-34A, AND 13-34B AS)
MODIFIED BY TRANSFER NOS. 65416,)
65886, AND 68302)

**ORDER GRANTING PETITIONS
FOR RECONSIDERATION**

This matter having come before the Department of Water Resources (Department) as a petition to reconsider the approval of water right transfers, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On November 9, 2001 the Department approved Water Right Transfer Nos. 65416, 65886, and 68302 (transfers) in the form of preliminary orders (orders). Copies of the orders were mailed to the applicants and the associated water right holders on November 13, 2001.
2. On November 27, 2001, the Department received Petitions for Reconsideration (petitions) in connection with the orders from Josephine P. Beeman of Beeman & Associates, P.C. on behalf of the City of Preston (petitioner). The petitioner seeks clarification and revision of several items related to the approval of the transfers.

CONCLUSIONS OF LAW

1. Section 67-5243(3) , *Idaho Code*, provides in pertinent part as follows:

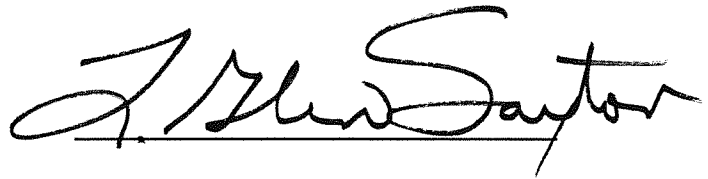
Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a recommended order or a preliminary order within fourteen (14) days of the issuance of that order. The presiding officer shall render a written order disposing of the petition.

2. The petition was filed timely.
3. The Department should grant the petitions pursuant to Section 67-5243(3), *Idaho Code*, so that it can review the issues raised by the petitioner and make any changes to the transfers, if necessary, by amending the transfers and re-issuing as new preliminary orders.

ORDER

IT IS HEREBY ORDERED that the petitions are **GRANTED** pursuant to Section 67-5243(3), *Idaho Code*, so that the Department can review the issues raised by the petitioner in the petitions.

Dated this 28th day of November, 2001.

A handwritten signature in black ink, reading "L. Glen Saxton". The signature is written in a cursive style with a horizontal line underneath the name.

L. GLEN SAXTON
Chief, Water Allocation Bureau

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 68302

This is to certify that: CITY OF PRESTON
70 W ONEIDA
PRESTON ID 83263

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>	<u>Total</u>	<u>Source</u>
13-34	WR/Decreed	01/01/1880	12.00 cfs			N/A	CUB RIVER

Purpose of Transfer (Changes Proposed)

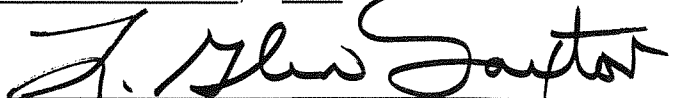
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
13-34	YES	YES	YES	YES	NO	YES

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
13-34	13-34B	2.5 cfs	N/A	N/A	N/A	13-34A	9.5 cfs	N/A	N/A	N/A
TOTALS		2.5 cfs	N/A	N/A	N/A		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 9th day of November, 2001


Chief, Water Allocation Bureau

MICROFILMED

NOV 13 2001

SUPPORT DATA

IN FILE # 13-34

WATER RIGHT NO. 13-34A
As Modified by Transfer No. 68302

In accordance with the approval of Transfer No. 68302, Water Right No. 13-34A is now described as follows.

Right Holder: CUB RIVER IRRIGATION CO
PO BOX 215
LEWISTON UT 84320

Priority Date: 01/01/1880

Source: CUB RIVER

Tributary: BEAR RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DOMESTIC	11/01 to	3/31	9.50 CFS	
STOCKWATER	11/01 to	3/31	9.50 CFS	
			9.50 CFS	

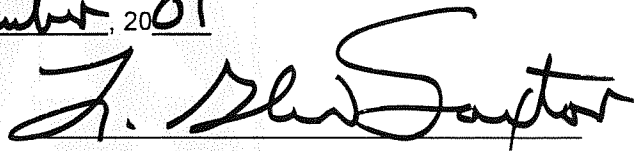
LOCATION OF POINT(S) OF DIVERSION:
CUB RIVER

CONDITIONS OF APPROVAL

1. The point of diversion, and month and day of priority date were not specified in decree.
2. Approval of Transfer 68302 is not a confirmation of the validity of this water right.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 9th day of November, 2001



Chief, Water Allocation Bureau

MICROFILMED
NOV 13 2001

WATER RIGHT NO. 13-34B
As Modified by Transfer No. 68302

In accordance with the approval of Transfer No. 68302, Water Right No. 13-34B is now described as follows.

Right Holder: CUB RIVER IRRIGATION CO
PO BOX 215
LEWISTON UT 84320

Priority Date: 01/01/1880

Source: BERGQUIST SPRINGS

Tributary: CUB RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MUNICIPAL	11/01	to 3/31	2.50 CFS	
			2.50 CFS	

LOCATION OF POINT(S) OF DIVERSION:

BERGQUIST SPRINGS NENE Sec. 10 Twp 15S Rge 41E FRANKLIN County

BERGQUIST SPRINGS NWNW Sec. 11 Twp 15S Rge 41E FRANKLIN County

CONDITIONS OF APPROVAL

1. Use of water under this right may be affected by an agreement between the protestant and the right holder.
2. Use of water under this water right will be regulated by the watermaster of State Water District No. 13-A, Cub River.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
4. Diversion of water from Berquist Springs is limited to those times water is available for diversion under this right and priority from Cub River.
5. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the watermaster for measuring the flow in Cub River at the original point of diversion.
6. Approval of Transfer 68302 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
7. Place of use is located within the City of Preston and surrounding service area.

MICROFILMED
NOV 13 2001

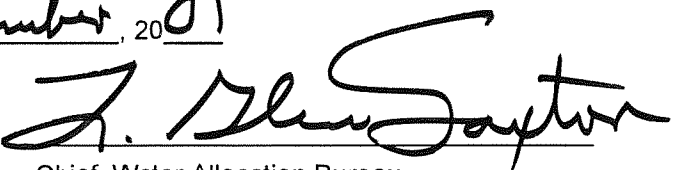
WATER RIGHT NO. 13-34B
As Modified by Transfer No. 68302

CONDITIONS OF APPROVAL

8. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 9th day of November, 2001


Chief, Water Allocation Bureau

MICROFILMED

NOV 13 2001