

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 23 2010

Department of Water Resources  
Eastern RegionAPPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1Name of Applicant(s) Preston-Whitney Irrigation Company Phone: \_\_\_\_\_Mailing Address: PO Box 311, Preston, ID 83263 Email: lyleporter@plmw.com

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use: Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.
- Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.
- ☐ No Representative

Name of representative Robert L. Harris Phone: 208-523-0620 Email: rharris@holdenlegal.comMailing Address: Holden, Kidwell, Hahn & Crapo, P.L.L.C., PO Box 50130, Idaho Falls, ID 83405-0130

- ☐ Send all correspondence for this application to the representative and not the applicant.
- OR
- ☐ Send original correspondence to the applicant and copies to the representative.
- ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.
- OR
- ☒ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

  
Signature of Applicant or Authorized Representative

Robert L. Harris, Attorney  
Print Name and Title if applicable

\_\_\_\_\_  
Signature of Applicant or Authorized Representative

\_\_\_\_\_  
Print Name and Title if applicable

## A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change Place of use
- ☐ Change nature of use ☐ Change period of use ☒ Other: To include period of use not included on original license.

2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label if part 1A.2. To better define the place of use so that it accurately reflects the current place of use for the storage water right of Lamont Reservoir. Water diverted and stored in Lamont Reservoir is not capable

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

of being delivered to all parts of the irrigated acreage within Preston-Whitney's service area as depicted in the attached GIS maps and shapefiles. The Preston-Whitney service area and its historically irrigated acres are the subject of a currently pending transfer (Transfer No. 75705). While this transfer includes the same service area to retain consistency, it does not include the same irrigated acres as Transfer No. 75075 because the irrigated acreage supplemented with storage water from Foster Reservoir is serviced out of the Johnson-Lamont Pipeline only.

## APPLICATION FOR TRANSFER OF WATER RIGHT PART 1 Continued

**B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.**

| 1.                         | <u>Right Number</u> | <u>Amount</u><br>(cfs/ac-ft) | <u>Nature of Use</u>           | <u>Period of Use</u>  | <u>Source &amp; Tributary</u> |
|----------------------------|---------------------|------------------------------|--------------------------------|-----------------------|-------------------------------|
| All or part                |                     |                              |                                |                       |                               |
| <b>LAMONT RESERVOIR</b>    |                     |                              |                                |                       |                               |
| ✓ <input type="checkbox"/> | <u>13-2291</u>      | <u>2407.5 AFA</u>            | <u>Irrigation Storage</u>      | <u>01/01 to 12/31</u> |                               |
|                            |                     |                              | <u>Irrigation from Storage</u> | <u>04/01 to 11/01</u> | <u>CubRiver/Bear River</u>    |

2. Total amount of water being transferred or changed      Cubic feet per second and/or 2407.5 acre-feet annum.

3. Point(s) of diversion:

✓ No changes to point(s) of diversion are proposed, **but points of injection and redirection are now designated below.**

☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it Attachment #5.

POD = Point of Divesion    POI = Point of Injection    POR = Point of Rediversion

| New ? | Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County   | Source          | Local name for diversion  |
|-------|-----|-----|-----|-----|------|------|------|----------|-----------------|---------------------------|
| No    |     | NW  | NE  | NW  | 8    | 15S  | 41E  | FRANKLIN | POD: CUB RIVER  | CUB RIVER/GLENDALE CANAL  |
| Yes   |     | SE  | NE  | SE  | 10   | 15S  | 40E  | FRANKLIN | POI: WORM CREEK |                           |
| Yes   |     | SE  | NW  | SE  | 10   | 15S  | 40E  | FRANKLIN | POR: WORM CREEK | JOHNSON-LAMONT FILL DITCH |

SCANNED

OCT 13 2010

76834

**AMENDED**

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

|     |  |    |    |    |    |     |     |          |                                        |  |
|-----|--|----|----|----|----|-----|-----|----------|----------------------------------------|--|
| Yes |  | SE | NE | SW | 30 | 15S | 40E | FRANKLIN | POI: UNNAMED BRANCH<br>OF SPRING CREEK |  |
| Yes |  | SE | SE | NE | 36 | 15S | 39E | FRANKLIN | POR: SPRING CREEK                      |  |

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5).

| Twp | Rge | Sec | NE 1/4                                                                                                                                               |    |    |    | NW 1/4 |    |    |    | SW 1/4 |    |    |    | SE 1/4 |    |    |    | Acre Totals |
|-----|-----|-----|------------------------------------------------------------------------------------------------------------------------------------------------------|----|----|----|--------|----|----|----|--------|----|----|----|--------|----|----|----|-------------|
|     |     |     | NE                                                                                                                                                   | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE |             |
|     |     |     | GIS data for irrigated acres and service area are on attached CD. Supplemental irrigation is for 3938 acres within the Preston-Whitney service area. |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |             |
|     |     |     |                                                                                                                                                      |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |             |

Total Acres (for irrigation use) \_\_\_\_\_

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future. Cub River/Glendale Canal: Two screw operated wood clad headgates, each approximately 6' wide, mounted on a concrete pad adjacent to a diversion check made of rock with concrete wings, in the Cub River, which diverts into a 12' x 25' canal. The measuring device is a concrete Parshall flume approximately 1000' downstream from the diversion.
- Distribution System: Water stored in Lamont Reservoir is first diverted under Water Right No. 13-2291 at the Glendale Canal heading, and is then injected into Worm Creek above Glendale Reservoir (which is an on-stream reservoir on Work Creek). The Foster Reservoir Water is then rediverted approximately 100 yards below the Worm Creek point of injection into the heading of what is commonly called the Johnson-Lamont Fill Ditch. This ditch runs just south of Glendale Reservoir, and then turns south to fill Johnson Reservoir (which is NOT owned by Preston-Whitney Irrigation Company, but by Preston-Whitney Reservoir Company) and Lamont Reservoir (which is owned by Preston-Whitney Irrigation Company). Both Johnson and Lamont Reservoirs are off-stream reservoirs. Once stored in Lamont Reservoir, storage water is released into the Johnson-Lamont Pipeline, which distributes water to Preston-Whitney's shareholders. Water is also, at times, permitted to flow into an open canal

**AMENDED**

76834

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

|     |  |    |    |    |    |     |     |          |                                        |  |
|-----|--|----|----|----|----|-----|-----|----------|----------------------------------------|--|
| Yes |  | SE | NE | SW | 30 | 15S | 40E | FRANKLIN | POI: UNNAMED BRANCH<br>OF SPRING CREEK |  |
| Yes |  | SE | SE | NE | 36 | 15S | 39E | FRANKLIN | POR: SPRING CREEK                      |  |

## 4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5).

| Twp | Rge | Sec | NE 1/4                                                                                                                                                 |    |    |    | NW 1/4 |    |    |    | SW 1/4 |    |    |    | SE 1/4 |    |    |    | Acre Totals |
|-----|-----|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------|----|----|----|--------|----|----|----|--------|----|----|----|--------|----|----|----|-------------|
|     |     |     | NE                                                                                                                                                     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE |             |
|     |     |     | GIS data for irrigated acres and service area are on attached CD. Supplemental irrigation is for 4156.2 acres within the Preston-Whitney service area. |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |             |
|     |     |     |                                                                                                                                                        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |             |

Total Acres (for irrigation use) \_\_\_\_\_

## 5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future. **Cub River/Glendale Canal:** Two screw operated wood clad headgates, each approximately 6' wide, mounted on a concrete pad adjacent to a diversion check made of rock with concrete wings, in the Cub River, which diverts into a 12' x 25' canal. The measuring device is a concrete Parshall flume approximately 1000' downstream from the diversion.
- Distribution System:** Water stored in Lamont Reservoir is first diverted under Water Right No. 13-2291 at the Glendale Canal heading, and is then injected into Worm Creek above Glendale Reservoir (which is an on-stream reservoir on Work Creek). The Foster Reservoir Water is then rediverted approximately 100 yards below the Worm Creek point of injection into the heading of what is commonly called the Johnson-Lamont Fill Ditch. This ditch runs just south of Glendale Reservoir, and then turns south to fill Johnson Reservoir (which is NOT owned by Preston-Whitney Irrigation Company, but by Preston-Whitney Reservoir Company) and Lamont Reservoir (which is owned by Preston-Whitney Irrigation Company). Both Johnson and Lamont Reservoirs are off-stream reservoirs. Once stored in Lamont Reservoir, storage water is released into the Johnson-Lamont Pipeline, which distributes water to Preston-Whitney's shareholders. Water is also, at times, permitted to flow into an open canal

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

commonly known as the Middle Ditch. Once in the middle ditch, storage water can then be injected into an unnamed tributary of Spring Creek, and such injected storage water is then rediverted at a location on Spring Creek.

- b. Who owns the property at the point(s) of diversion? Max Sharp, US Forest Service (Glendale Canal).

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

Cub River/Glendale Canal: Preston-Whitney has a permit from the US Forest Service for its right-of-way.

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? No. There are no liens on the Foster Reservoir water rights.

If yes, ☒ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: Idaho Soil Conservation Commission; Security Interest for loan to construct Johnson-Lamont Pipeline.

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation or legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer: None. The transfer more accurately documents the current place of use for supplemental storage water from Lamont Reservoir.

- e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) of use: All of the acreage identified in the place of use above is also serviced with storage water from Glendale Reservoir (Water Right Nos. 13-2108, 13-2288, and 13-2288A). The Glendale Reservoir storage rights are also subject to a transfer application submitted contemporaneously with this transfer. The place of use identified also utilizes storage rights from the Preston-Whitney Reservoir Company under Water Right Nos. 13-2287 and 13-2302. Regarding natural flow water rights, Preston-Whitney provides such water to its stockholders pursuant to Water Right Nos. 13-2, 13-3, 13-143, 13-271, and 13-2104. At a portion of the southern boundary of the service area, there are five stockholders in Preston-Whitney who also have stock in the Cub River Irrigation Company (Water Right Nos. 13-26B, 13-26C, 13-26D, 13-34A, 13-34B, 13-222, and 13-2066).

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ Undergone a period of five or more consecutive years of non-use;
- ☐ ☒ Currently leased to the Water Supply Bank;
- ☐ ☒ Currently used in a mitigation plan limiting the use of water under the right, or
- ☐ ☒ Currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT  
PART 3A. **PLAT MAP (See Part 3A of instructions for application for transfer for complete requirements.)**

- ✓ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.
- ✓ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b**. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

B. **CHANGES IN NATURE OF USE (Water Balance)**

- ☐ If you propose to change the nature of use or period of use of all or part of the right(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

C. **PLACE OF USE CHANGES THE SUPPLEMENTAL IRRIGATION RIGHTS**

- ☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b**.

1. Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required in Part 3B above.

N/A

## FOR DEPARTMENT USE ONLY

Transfer contains \_\_\_\_\_ pages and \_\_\_\_\_ attachments.

Received by: \_\_\_\_\_ Date: \_\_\_\_\_ Prelim. Check by \_\_\_\_\_ Date: \_\_\_\_\_

Fee paid: \$ 1091.60 Date: 9/24/2010 Receipted by: BS/ML Receipt # 8036162

Add'l fee paid \_\_\_\_\_ Date: \_\_\_\_\_ Receipted by: \_\_\_\_\_ Receipt # \_\_\_\_\_

76834

SCANNED  
OCT 13 2010

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT  
MINIMUM REQUIREMENTS CHECKLIST**

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule and water right proof report or details report for part 2A of the transfer application are available from any Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

- | Yes                                                                                                                        | N/A                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/>                                                                                        | <input type="checkbox"/>            | * Means the item is <u>always required</u> and must be included with the application.                                                                                                                                                                                                                                                                                                                                                                                                                |
| <input checked="" type="checkbox"/>                                                                                        | <input type="checkbox"/>            | * Completed Application for Transfer of Water Right form, Part 1.                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <input checked="" type="checkbox"/>                                                                                        | <input type="checkbox"/>            | * Signature of Applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.                                                                                                                                                                                                                                                                                                |
| <input checked="" type="checkbox"/>                                                                                        | <input type="checkbox"/>            | * Application for Transfer Part 2A. Attach a Proof Report (obtained from Department) or Details report (Obtained on website) describing each water right in the transfer as currently recorded.<br>Complete and attached an Application for Transfer Part 2B <u>for each water right</u> for which <u>only a portion</u> is proposed to be changed through this transfer application.                                                                                                                |
| <input checked="" type="checkbox"/>                                                                                        | <input type="checkbox"/>            | * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).                                                                                                                                                                                                                                             |
| <input checked="" type="checkbox"/>                                                                                        | <input type="checkbox"/>            | * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer).                                                                                                                                                                                                                                                                                                                                                                  |
| <br><b>Attachments to Application</b> - Label each attachment with the corresponding number shown below as Attachment #1-9 |                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <input type="checkbox"/>                                                                                                   | <input checked="" type="checkbox"/> | #1 if the applicant is a business, partnership, organization, or association, and <u>not</u> currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder (see Part 1.)                                                                                                                                                                                                                            |
| <input checked="" type="checkbox"/>                                                                                        | <input checked="" type="checkbox"/> | #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner.                                                                                                                                                                                                                                                                                                                                                                        |
| <input type="checkbox"/>                                                                                                   | <input checked="" type="checkbox"/> | #2b if the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s).                                                                                                                                                                                                                                       |
| <input type="checkbox"/>                                                                                                   | <input checked="" type="checkbox"/> | #3 Documentation of authority to make the change if the applicant is not the water right owner.                                                                                                                                                                                                                                                                                                                                                                                                      |
| <input checked="" type="checkbox"/>                                                                                        | <input type="checkbox"/>            | #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)                                                                                                                                                                                                                                                                                                                                                                                    |
| <input type="checkbox"/>                                                                                                   | <input checked="" type="checkbox"/> | #5 if the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at <a href="http://www.idwr.idaho.gov/water/rights">http://www.idwr.idaho.gov/water/rights</a> . |
| <input checked="" type="checkbox"/>                                                                                        | <input type="checkbox"/>            | #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer (See Part 1.5.c)                                                                                                                                                                                                                                      |
| <input checked="" type="checkbox"/>                                                                                        | <input type="checkbox"/>            | * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A).                                                                                                                       |
| <input checked="" type="checkbox"/>                                                                                        | <input type="checkbox"/>            | #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.                                                                                                                                                                                                      |
| <input type="checkbox"/>                                                                                                   | <input checked="" type="checkbox"/> | #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B).                                                                                                                                                                                                    |
| <input type="checkbox"/>                                                                                                   | <input checked="" type="checkbox"/> | #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)                                                                                                                                                                          |
| <input type="checkbox"/>                                                                                                   | <input checked="" type="checkbox"/> | #9 Other. Please describe: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

G:\WPDATA\RLH\7206-04 Preston-Whitney, Transfer\Transfer App.Lamont.wpd:cdv

SCANNED  
OCT 13 2010

76834

# **Attachment No. 2a Water Right Ownership Documentation**

76 83 4

SCANNED  
OCT 13 2010

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES  
Water Right Report

9/23/2010

WATER RIGHT NO. 13-2291

| <u>Owner Type</u> | <u>Name and Address</u>                                                                              |
|-------------------|------------------------------------------------------------------------------------------------------|
| Current Owner     | PRESTON WHITNEY IRRIGATION CO<br>33 SOUTH 1 EAST<br>PRESTON, ID 83263                                |
| Security Interest | IDAHO SOIL CONSERVATION COMMISSION<br>2270 OLD PENITENTIARY ROAD<br>BOISE, ID 83712<br>(208)332-8650 |

Priority Date: 06/30/1947

Basis: License

Status: Active

| <u>Source</u> | <u>Tributary</u> |
|---------------|------------------|
| CUB RIVER     | BEAR RIVER       |

| <u>Beneficial Use</u>   | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
|-------------------------|-------------|-----------|-----------------------|---------------|
| IRRIGATION STORAGE      | /           | /         |                       | 2407.5 AFA    |
| IRRIGATION FROM STORAGE | /           | /         |                       | 2407.5 AFA    |
| Total Diversion         |             |           | 2407.5 AFA            |               |

Location of Point(s) of Diversion:

|           |      |         |              |           |                 |
|-----------|------|---------|--------------|-----------|-----------------|
| CUB RIVER | SWNW | Sec. 20 | Township 15S | Range 40E | FRANKLIN County |
|-----------|------|---------|--------------|-----------|-----------------|

76834

SCANNED  
OCT 13 2010

Place(s) of use:

Place of Use Legal Description: IRRIGATION FROM STORAGE FRANKLIN County

| Township | Range | Section | Lot | Tract | Acres | Lot | Tract | Acres | Lot | Tract | Acres | Lot | Tract | Acres |
|----------|-------|---------|-----|-------|-------|-----|-------|-------|-----|-------|-------|-----|-------|-------|
| 15S      | 39E   | 15      |     |       |       |     |       |       |     |       |       |     |       |       |
|          |       | 16      |     |       |       |     |       |       |     |       |       |     |       |       |
|          |       | 22      |     |       |       |     |       |       |     |       |       |     |       |       |
|          |       | 23      |     |       |       |     |       |       |     |       |       |     |       |       |
|          |       | 24      |     |       |       |     |       |       |     |       |       |     |       |       |
|          |       | 34      |     |       |       |     |       |       |     |       |       |     |       |       |
|          |       | 35      |     |       |       |     |       |       |     |       |       |     |       |       |
|          |       | 36      |     |       |       |     |       |       |     |       |       |     |       |       |
|          | 40E   | 30      |     |       |       |     |       |       |     |       |       |     |       |       |
|          |       | 31      |     |       |       |     |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |     |       |       |     |       |       |     |       |       |

Conditions of Approval:

|    |                                              |
|----|----------------------------------------------|
| 1. | This right is used to fill Lamont Reservoir. |
|----|----------------------------------------------|

Dates:

Licensed Date: 12/30/1953

Decreed Date:

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 13A

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

SCANNED

OCT 13 2010

76834

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

76 83 4

SCANNED  
OCT 13 2010



Holden Kidwell  
Hahn & Crapo P.L.L.C.  
L A W O F F I C E S

Robert L. Harris  
Attorney at Law

1000 Riverwalk Dr., Ste. 200  
PO Box 50130  
Idaho Falls, Idaho 83405

Tel: (208) 523-0620  
Fax: (208) 523-9518  
rharris@holdenlegal.com

# Attachment No. 4 Power of Attorney

SCANNED  
OCT 13 2010

76834

# **Attachment No. 6**

## **Lien Holder Authorization**

76 83 4

SCANNED  
OCT 13 2010



# Idaho Soil Conservation Commission

Resource Conservation & Rangeland Development Program

Boise Office: 208-332-8850

Fax: 208-334-2386

www.scc.state.id.us

RCRDP@IdahoAg.us

## Security Agreement

THIS SECURITY AGREEMENT, dated 27 Sept, 2008 is made between the Idaho Soil Conservation Commission (herein called "Secured Party"), whose mailing address is PO Box 790, Boise, Idaho, 83701-0790, and Preston Whitney Irrigation Company (herein called "Debtor") whose mailing address is, 33 South 1<sup>st</sup> East Preston, ID 83263.

### SECTION 1 CREATION OF SECURITY INTEREST

Debtor hereby grants to Secured Party a security in the collateral, described in Section 2, to secure the performance and payment of Debtor's promissory note, dated 27 Sept, 2008, for the principal sum of \*\*SEVEN HUNDRED FIFTY THOUSAND and 00/100\*\* dollars (\$750,000.00), with interest at the rate of TWO percent (2.0%) per annum, executed by the Debtor and payable to the order of the Secured Party.

### SECTION 2 COLLATERAL DESCRIPTION

The collateral subject to this agreement, herein referred to as collateral, is the property of the following description: Water rights as listed below.

| Water right Number | Source    | Amount    | Priority  |
|--------------------|-----------|-----------|-----------|
| 13-00003           | Cub River | 25.00CFS  | 4/1/1882  |
| 13-00036           | Cub River | 3.00CFS   | 4/1/1882  |
| 13-00037           | Cub River | 2.00CFS   | 4/1/1882  |
| 13-02291           | Cub River | 2407.50AF | 6/30/1947 |

Together with all equipment, parts, appliances, accessions, and appurtenances now or hereafter placed thereon, all of which shall be a component part of collateral.

## Security Agreement

### SECTION 3 OBLIGATIONS OF DEBTOR

1) **Payment Period.** Debtor shall pay to the Secured Party the sum evidenced by the above mentioned note or any renewals or extensions thereof executed pursuant to the security agreement in accordance with the terms of such note, and any other obligations that now exist or may hereafter accrue from Debtor to Secured Party, including all future advances that may be made at the option of Secured Party as provided herein.

2) **Warranties and Representations.** Debtor warrants and covenants that:

- a) Debtor is the absolute and exclusive owner of the above-described collateral, and such collateral is free from all liens, encumbrances, claims, security and other interests, except as described in Section 2, and Debtor will, at Debtor's cost and expense, defend any action that may affect Secured Party's security interest in, or Debtor's title to, collateral.
- b) Debtor will permit Secured Party to inspect the collateral at any reasonable time and not sell or otherwise dispose of the collateral or of any interest therein without the prior written consent of Secured Party.
- c) Debtor will pay promptly when due:
  - i) Indebtedness evidenced by the note and any indebtedness to Secured Party secured hereby.
- d) Taxes, assessments, and any other encumbrances levied on collateral or on its use and operation.
  - i) Costs of lien searches, filing or recording fees for instruments necessary to perfect, continue, service, or terminate this security interest.
- e) Secured Party may make advances for and on behalf of the Debtor to protect and preserve the collateral and such advances shall bear interest at the note rate from the date on which the amount of the advance was due to the date of payment to the Secured Party.
- f) Debtor will keep collateral separate and identifiable and at the address of Debtor shown herein, and Debtor will not remove collateral from such address without the written consent of Secured Party.
- g) Debtor shall perform all covenants and agreements set forth in this Security Agreement.
- h) Debtor shall insure collateral with companies acceptable to Secured Party against such casualties and in such amounts as Secured Party shall require. The insurance shall be for the benefit of Debtor and Secured Party as their interest may appear. Secured Party is hereby authorized to collect from the insurance company any amount that may become due under any of such insurance, and the Secured Party may apply the same to the obligations hereby secured.

### SECTION 4 OBLIGATIONS OF SECURED PARTY

Secured Party shall make the loan to Debtor as agreed and as evidenced by the above-mentioned note.

## Security Agreement

### SECTION 5 PROCEEDS OF COLLATERAL

Debtor hereby grants to Secured Party a security interest in and to all proceeds of collateral as defined by Idaho Code Section 28-9-3061(1). This provision shall not be construed to mean that a debtor is authorized to sell, lease, or dispose of collateral without consent of Secured Party.

### SECTION 6 FINANCING STATEMENT

At the request of Secured Party, Debtor will join in executing, or will execute, as appropriate, all necessary financing statements in a form satisfactory to Secured Party, and will pay the cost of filing such statements. Debtor will execute all other instruments deemed necessary by Secured Party and pay the cost of filing such documents. Debtor warrants that no financing statement covering collateral or any part thereof or any proceeds thereof is presently on file in any public office, except as described in Section 2.

### SECTION 7 REIMBURSEMENT OF EXPENSES

Secured Party may at its option and at any time discharge taxes, or interest on collateral, perform or cause to be performed for and on behalf of Debtor any actions and conditions, obligations, or covenants that Debtor has failed or refused to perform, or pay for the repair, maintenance, and preservation of collateral. All sums so expended shall bear interest from the date of payment at the rate of eighteen percent (18%) per year, shall be payable at the place designated in the above mentioned note, and shall be secured by this security agreement.

### SECTION 8 TIME OF PERFORMANCE

When performing any act under this security agreement and the note secured thereby, time shall be of the essence.

### SECTION 9 WAIVER

Failure of Secured Party to exercise any right or remedy, including but not limited to the acceptance of partial or delinquent payments, shall not be a waiver of any obligation of Debtor or right of Secured Party or constitute a waiver of any other similar default subsequently occurring.

### SECTION 10 DEFAULT

If Debtor fails to pay when due any amount payable on the above-mentioned note or on any other indebtedness of Debtor secured hereby, or shall fail to observe or perform any of the provisions of this agreement, Debtor shall be in default.

## Security Agreement

### SECTION 11 REMEDIES

On any default, and at any time thereafter, Secured Party may declare all obligations secured hereby immediately due and payable and may proceed to enforce payment of the same and exercise any and all of the rights and remedies provided by Idaho Code Section 28-9-501 through 28-9-507 as well as any and all other rights and remedies possessed by Secured Party.

### SECTION 12 GOVERNING LAW

(a) This security agreement shall be construed according to chapter 9 of title 28, Idaho Code, and other applicable laws of the State of Idaho, and all obligations of the parties created hereunder are to be formed in the state of Idaho.

(b) All terms used herein that are defined in chapter 9 of title 28, Idaho Code, shall have the same meaning herein as therein defined.

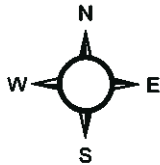
IN WITNESS WHEREOF, the parties have executed this agreement.

  
Preston Whitney Irrigation Company by  
Lyle Porter, President

# **Attachment No. 7a Map - Proposed POD**

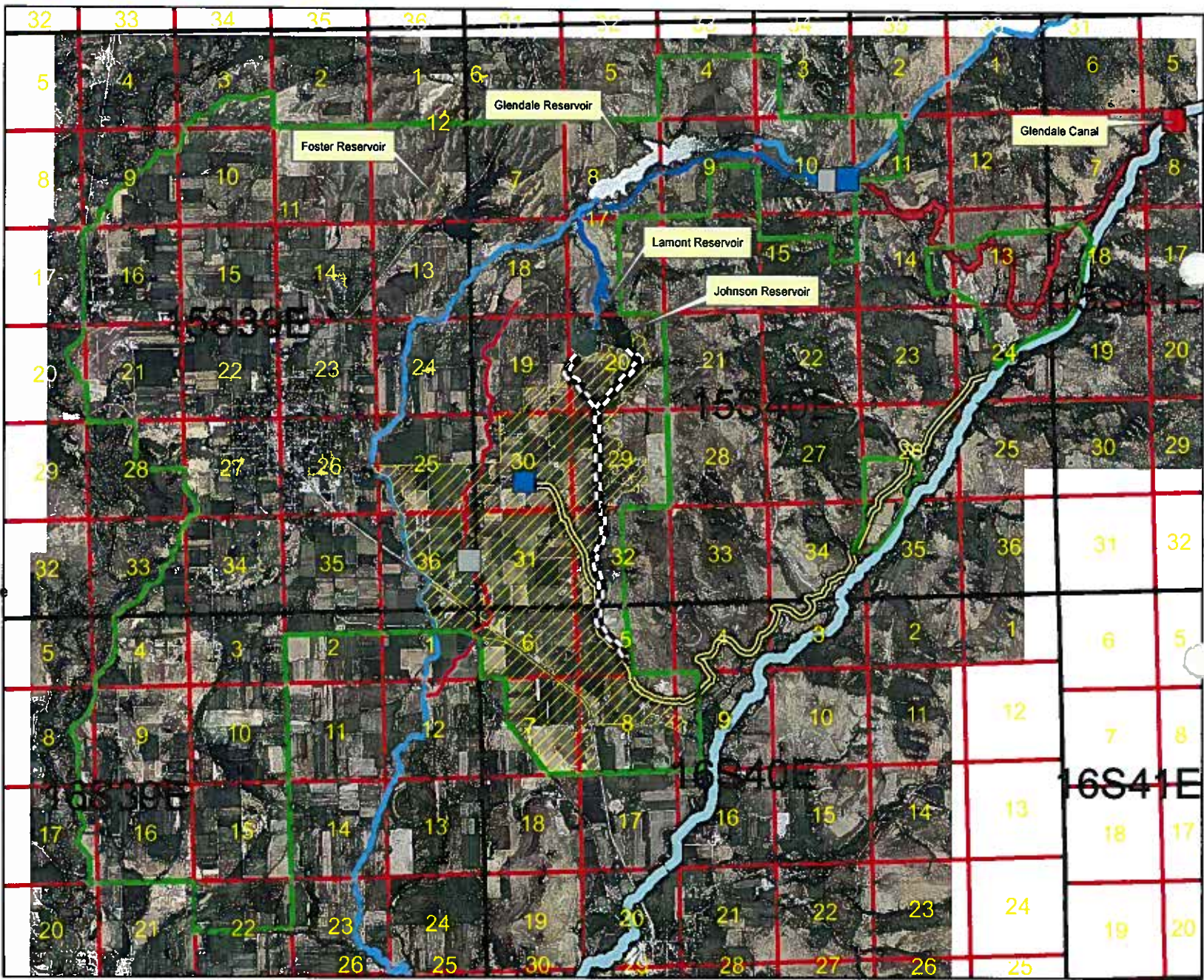
SCANNED  
OCT 13 2016

# PRESTON-WHITNEY LAMONT STORAGE WATER TRANSFER



## Legend

- LaMont\_POD
- LaMont\_POI
- LaMont\_POR
- Service Area
- LaMont\_Irr\_Acres
- Cub\_River
- Worm\_Creek
- Spring\_Creek
- Glendale\_Canal
- Johnson-Lamont\_Ditch
- Johnson\_Lamont\_Pipeline
- Middle\_Ditch
- gcdb\_tr
- gcdb\_sections

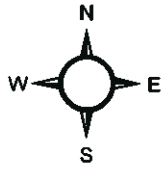


76834

OCT 13 2010

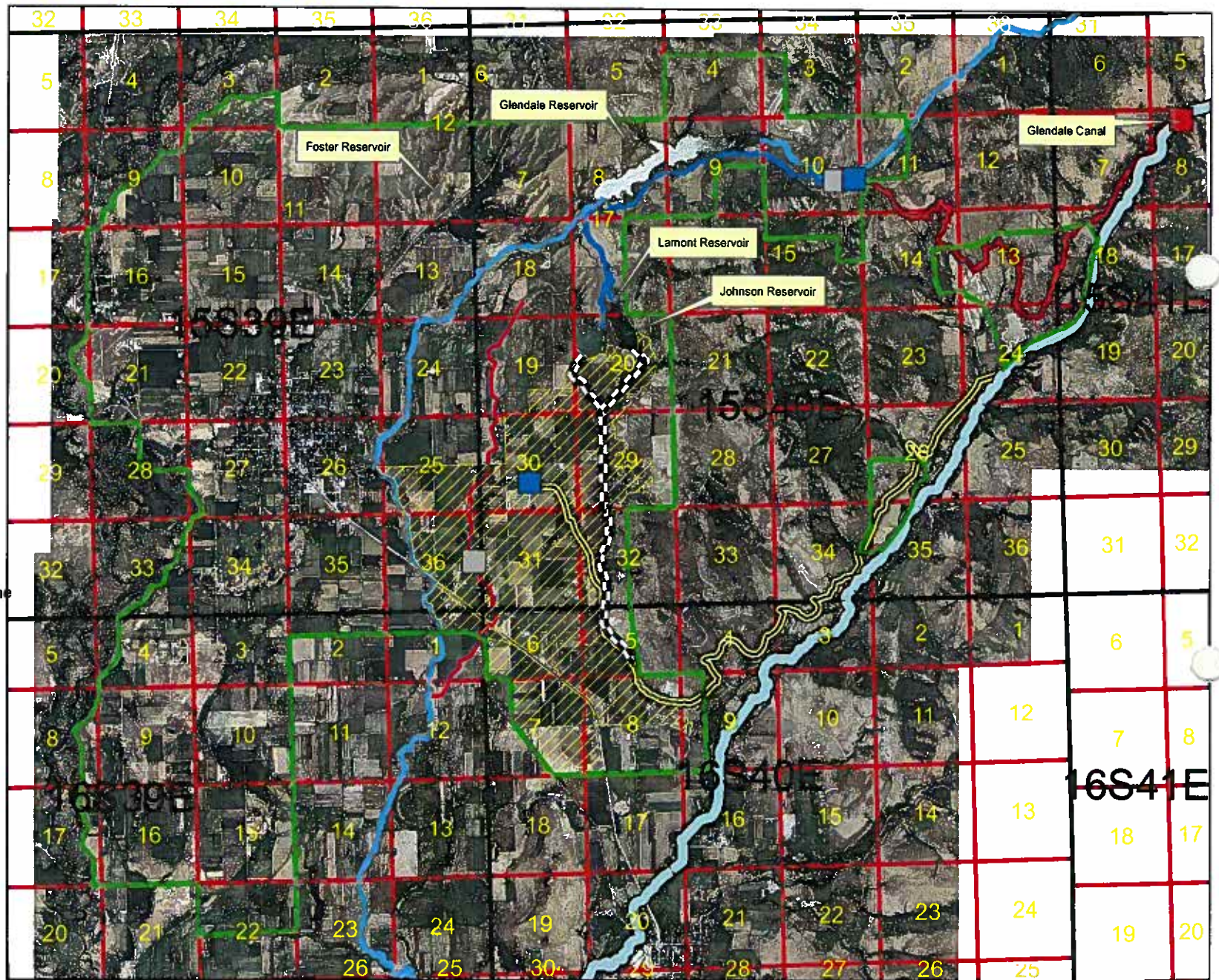
HK

# PRESTON-WHITNEY LAMONT STORAGE WATER TRANSFER



## Legend

- LaMont\_POD
- LaMont\_POI
- LaMont\_POR
- Service Area
- LaMont\_Irr\_Acres
- Cub\_River
- Worm\_Creek
- Spring\_Creek
- Glendale\_Canal
- Johnson-Lamont\_Ditch
- Johnson\_Lamont\_Pipeline
- Middle\_Ditch
- gcdb\_tr
- gcdb\_sections



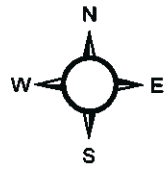
76834

OCT 13 2010

SCANNED



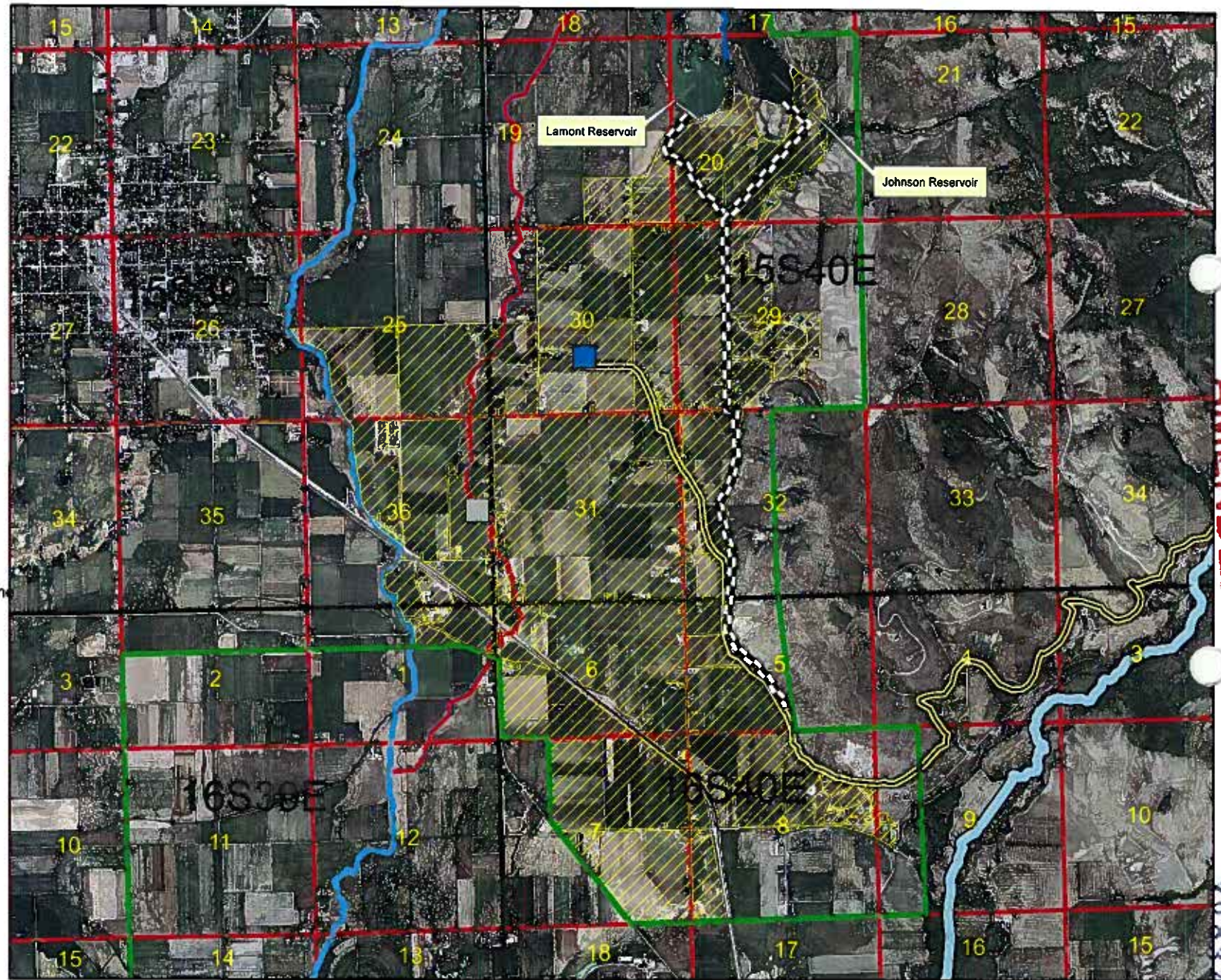
# PRESTON-WHITNEY LAMONT STORAGE WATER TRANSFER



## Legend

- LaMont\_POB
- LaMont\_POI
- LaMont\_POR
- Service Area
- PW\_Lamont\_Irr\_Acres
- Cub\_River
- Worm\_Creek
- Spring\_Creek
- Glendale\_Canal
- Johnson-Lamont\_Ditch
- Johnson\_Lamont\_Pipeline
- Middle\_Ditch
- gcdb\_tr
- gcdb\_sections

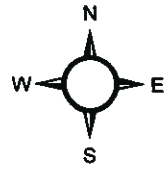
3938 Acres



AMENDED

76834

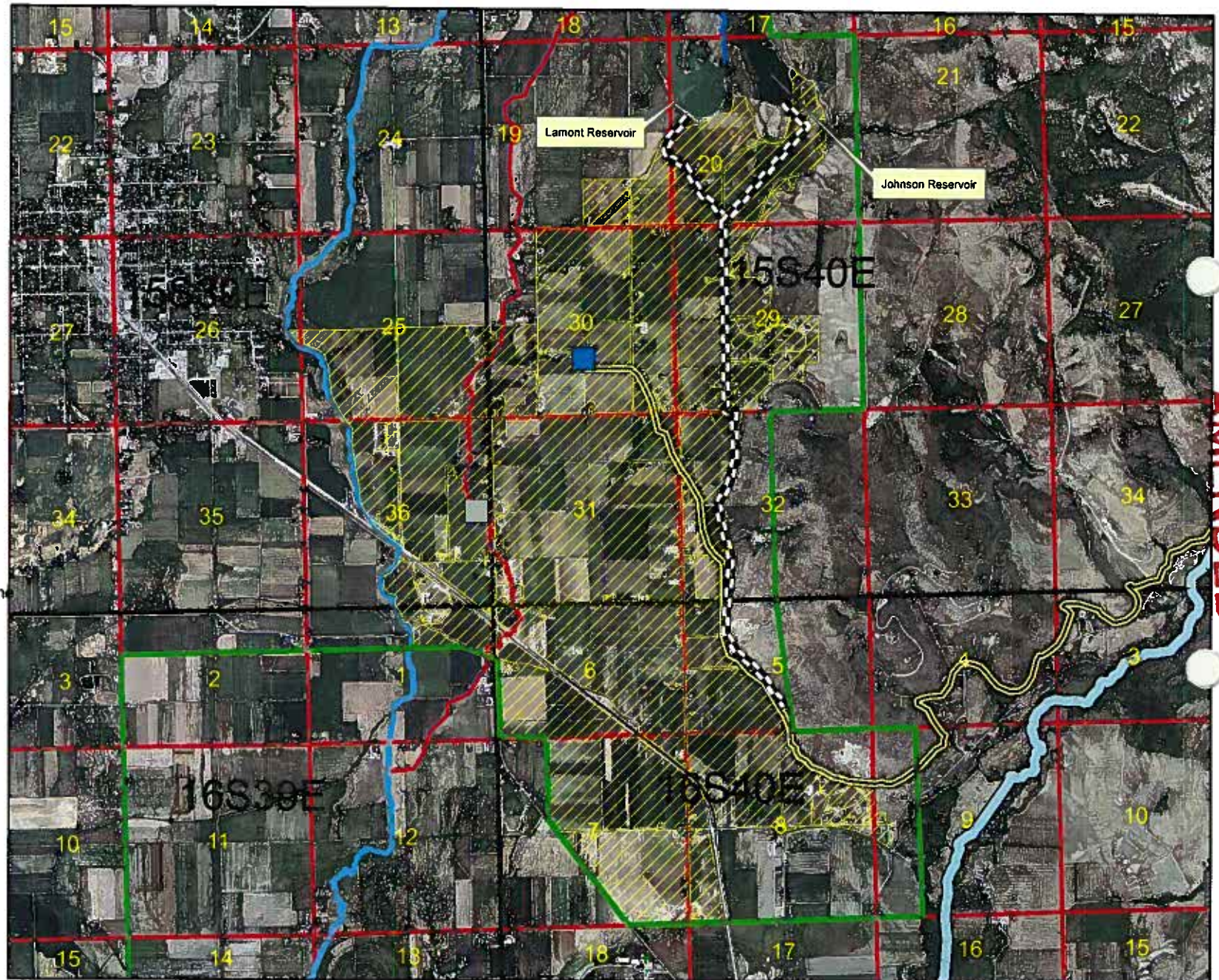
# PRESTON-WHITNEY LAMONT STORAGE WATER TRANSFER



## Legend

- LaMont\_POB
- LaMont\_POI
- LaMont\_POR
- Service Area
- PW\_Lamont\_Irr\_Acres
- Cub\_River
- Worm\_Creek
- Spring\_Creek
- Glendale\_Canal
- Johnson-Lamont\_Ditch
- Johnson\_Lamont\_Pipeline
- Middle\_Ditch
- gcdb\_tr
- gcdb\_sections

3938 Acres



76834

# **Attachment No. 7b**

## **GIS Shape File**

76 83 4

SCANNED  
OCT 13 2021