

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 RepresentativeName 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.

Robert L. Harris
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

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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> (cfs/ac-ft)	<u>Nature of Use</u>	<u>Period of Use</u>	<u>Source & Tributary</u>
All or part					
LAMONT RESERVOIR					
✓ ☐	<u>13-2291</u>	<u>2407.5 AFA</u>	<u>Irrigation Storage</u>	<u>01/01 to 12/31</u>	<u>Cub River/Bear River</u>
			<u>Irrigation from Storage</u>	<u>04/01 to 11/01</u>	

2. Total amount of water being transferred or changed 2407.5 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 Diversion 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

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Yes		SE	NE	SW	30	15S	40E	FRANKLIN	POI: UNNAMED BRANCH 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).

Tw	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

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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).

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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 RESOURCES**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3****A. 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 Received by: [Signature] Receipt # 8036162
 Add'l fee paid _____ Date: _____ Received by: _____ Receipt # _____

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**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 | |
|--|-------------------------------------|--|
| ☒ | ☐ | * Completed Application for Transfer of Water Right form, Part 1. |
| ☒ | ☐ | * 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. |
| ☒ | ☐ | * 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.
Complete and attached an Application for Transfer Part 2B for each water right for which <u>only a portion</u> is proposed to be changed through this transfer application. |
| ☒ | ☐ | * 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). |
| ☒ | ☐ | * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer). |
|
Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9 | | |
| ☐ | ☒ | #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.) |
| ☒ | ☒ | #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner. |
| ☐ | ☒ | #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). |
| ☐ | ☒ | #3 Documentation of authority to make the change if the applicant is not the water right owner. |
| ☒ | ☐ | #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.) |
| ☐ | ☒ | #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 http://www.idwr.idaho.gov/water/rights . |
| ☒ | ☐ | #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) |
| ☒ | ☐ | * #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). |
| ☒ | ☐ | #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. |
| ☐ | ☒ | #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). |
| ☐ | ☒ | #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.) |
| ☐ | ☒ | #9 Other. Please describe: _____ |

Attachment No. 2a Water Right Ownership Documentation

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 33 SOUTH 1 EAST PRESTON, ID 83263
Security Interest	IDAHO SOIL CONSERVATION COMMISSION 2270 OLD PENITENTIARY ROAD BOISE, ID 83712 (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
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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.
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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:

76834

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

76834



Holden Kidwell
Hahn & Crapo PLLC
LAW OFFICES

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

Attachment No. 6

Lien Holder Authorization



Idaho Soil Conservation Commission

Resource Conservation & Rangeland Development Program

Boise Office: 208-332-8650

Fax: 208-334-2386

www.scc.state.id.us

RCRDP@idahoAg.us

Security Agreement

THIS SECURITY AGREEMENT, dated 27 Sept, 2006 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 1st 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, 2006, 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:
 - 1) 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.
 - 1) 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.

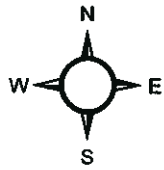
(b) All terms used herein that are defined in chapter 9 of title 28, Idaho Code, shall have the same meaning herein as therein defined.

IN WITNESS WHEREOF, the parties have executed this agreement.


Preston Whitney Irrigation Company by
Lyle Porter, President

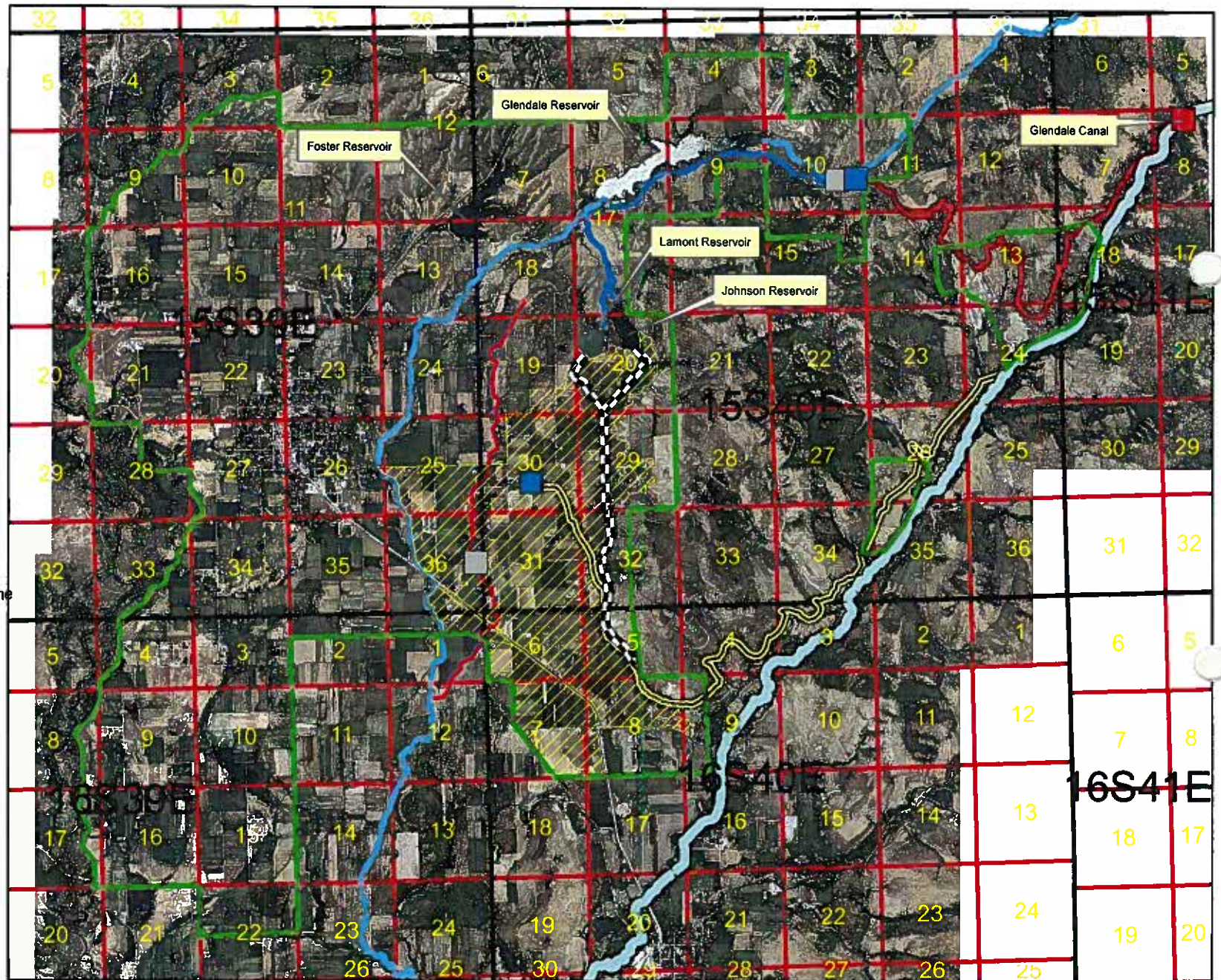
Attachment No. 7a
Map - Proposed POD

PRESTON-WHITNEY LAMONT STORAGE WATER TRANSFER



Legend

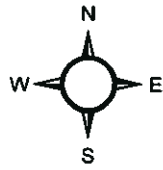
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- LaMont_POI
- LaMont_POR
- Service Area
- LaMont_Irr_Acres
- Cub_River
- Worm_Creek
- Spring_Creek
- Glendale_Canal
- Johnson-Lamont_Ditch
- Johnson_Lamont_Pipeline
- Middle_Ditch
- gcdb_tr
- gcdb_sections



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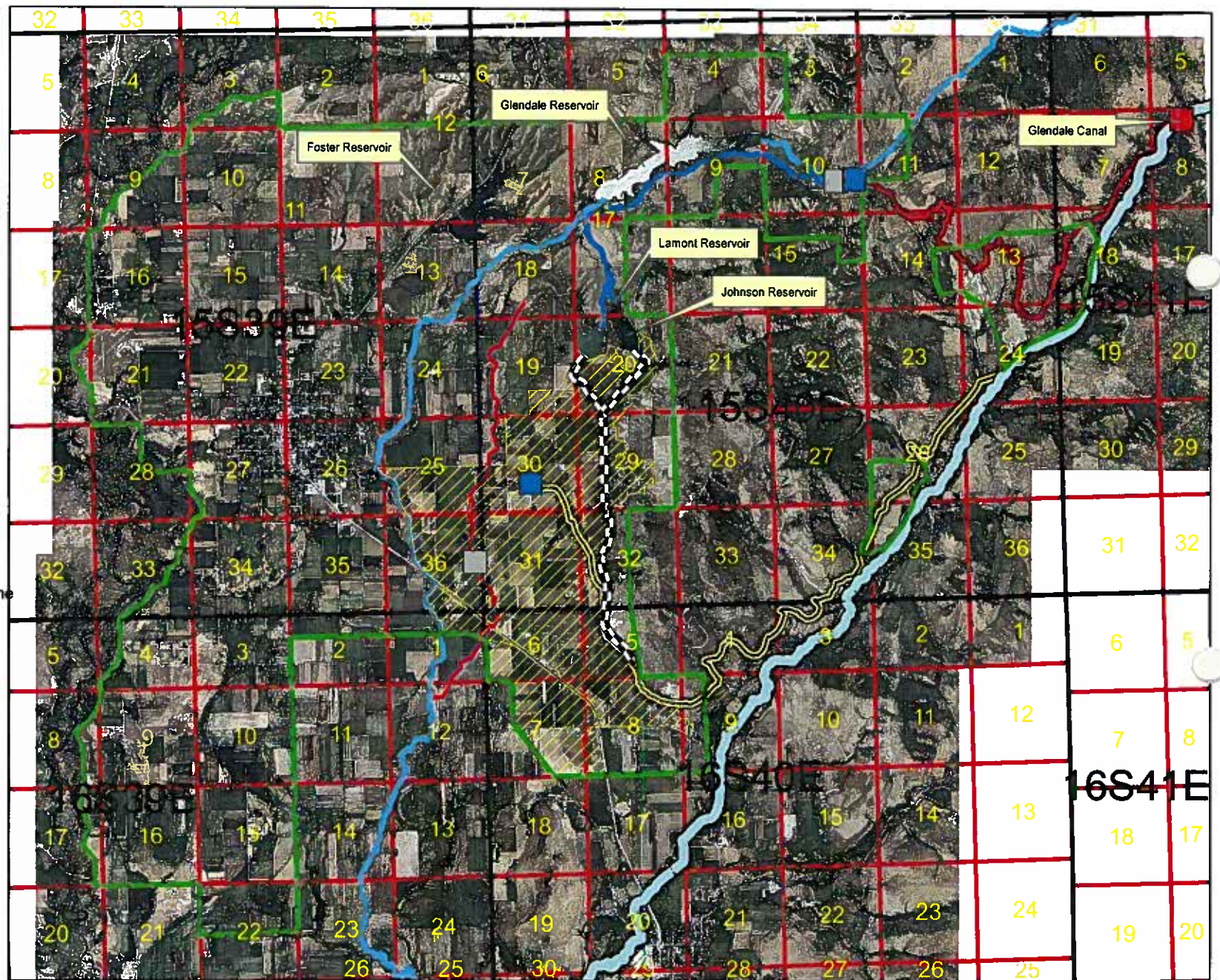
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PRESTON-WHITNEY LAMONT STORAGE WATER TRANSFER



Legend

- LaMont_POB
- 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



16S41E

Attachment No. 7b

GIS Shape File



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

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SEP 23 2010

Department of Water Resources
Eastern Region

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

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

E-mail: rharris@holdenlegal.com

September 23, 2010

Idaho Department of Water Resources
ATTN: Dave Carlson
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

RE: Applications for Water Right Transfer for Preston-Whitney Irrigation Company
Storage Water Rights.

Dear Dave:

Enclosed for processing are three Applications for Transfer for storage water rights owned by the Preston-Whitney Irrigation Company. We have also enclosed the appropriate filing fee for each transfer.

In order to provide some brief background that may assist in your review of these transfers, Preston-Whitney owns and operates three reservoirs. As you are aware, earlier this year, we filed an Amended Application for Transfer for some of Preston-Whitney's natural flow rights in order to better define their service area and document their historic irrigated acreage. We are now seeking to do the same thing with the Company's storage rights, but because there are three separate reservoirs, each with their own water rights, we felt it would be easier to submit these applications by reservoir: (1) Glendale; (2) Foster' and (3) LaMont.

Please note that the irrigated acreage from the storage water is different than the irrigated acreage of the Company's natural flow rights. This is because some of the irrigated acreage is located above the upper most reservoir, Glendale Reservoir, and therefore cannot be irrigated with storage. My clients have carefully reviewed aerial GIS maps, and we believe we have accurately documented the places of use where the various storage rights can be utilized. It is important to note that Glendale Reservoir water is capable of being distributed to nearly the entire Preston-Whitney system, other than the acreage above the reservoir. The Foster Reservoir and LaMont Reservoirs only deliver their storage water to specific locations, which are identified on the transfers.

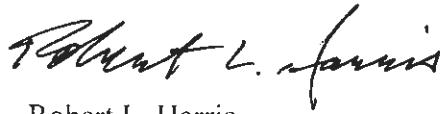
With each transfer, we have attached CDs with the various GIS shapefiles we have utilized in order to prepare the required maps and perform the necessary calculations. If you have any issues with the shapefiles on the CDs, please let us know, and we can provide you additional copies.

Please also note that the LaMont will require a lien holder authorization. We are in the process of obtaining that, and will provide it to you when we receive it.

Established in 1896

Lastly, the Preston-Whitney Irrigation Company system is somewhat complicated. We have done our best in each transfer to explain how water is diverted into these storage reservoirs, and thereafter how it is distributed. If you have any questions, or require any additional detail, please let me know. We appreciate your attention to this matter. If you have any questions, please give us a call.

Best Regards,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

October 13, 2010

PRESTON WHITNEY IRRIGATION CO
PO BOX 311
PRESTON, ID 83263

RE: Transfer No. 76835, 76834 and 76833

Dear Applicant(s):

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the PRESTON CITIZEN on October 20 and 27, 2010, IDAHO STATESMAN, LEWISTON TRIBUNE, POST-REGISTER, TIMES NEWS on October 21 and 28, 2010. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

Please contact this office if you have any questions regarding the application.

Sincerely,

Sharla Cox
Administrative Assistant

CC: Robert L Harris
Holden Kidwell Hahn & Crapo
PO Box 50130
Idaho Falls ID 83405-0130



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

October 13, 2010

TROY FOSTER
WATER DISTRICT 13A
2063 E 1600 S
PRESTON, ID 83263

RE: Applications for Transfer 76833, 76834, 76835

Dear Watermaster:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered during regional review. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Please contact this office if you have any questions regarding the application.

Sincerely,

Dave Carlson
Water Resources

Enclosure(s)

DC:sc

Cox, Sharla

From: Cox, Sharla
Sent: Wednesday, October 13, 2010 10:12 AM
To: 'legals@magicvalley.com'
Subject: Legal Ad for your paper

Contacts: Times News



Times News
E-Mail.doc

Sharla

Sharla Cox
Administrative Assistant
Idaho Department of Water Resources
900 N. Skyline Dr. Ste. A
Idaho Falls ID 83402
208-525-7161 - telephone
208-525-7177 - fax
sharla.cox@idwr.idaho.gov

October 13, 2010

LEGAL NOTICE DEPARTMENT
TIMES NEWS
PO BOX 548
TWIN FALLS, ID 83303-0548

RE: Transfer No. 76833, 76834, 76835,
Water Right No(s). 13-2108, 13-2288, 13-2288A, 13-2291, 13-2298

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before November 8, 2010. Your cooperation is appreciated.

Sincerely,

Sharla Cox
Administrative Assistant

Enclosure(s)

Cox, Sharla

From: Cox, Sharla
Sent: Wednesday, October 13, 2010 10:11 AM
To: 'Post Register (legalnotices@postregister.com)'
Subject: Legal Ad for your paper

Contacts: Post Register



Post Register
E-Mail.doc

Sharla

Sharla Cox
Administrative Assistant
Idaho Department of Water Resources
900 N. Skyline Dr. Ste. A
Idaho Falls ID 83402
208-525-7161 - telephone
208-525-7177 - fax
sharla.cox@idwr.idaho.gov

October 13, 2010

LEGAL NOTICE DEPARTMENT
POST-REGISTER
PO BOX 1800
IDAHO FALLS, ID 83402

RE: Transfer No. 76833, 76834, 76835,
Water Right No(s). 13-2108, 13-2288, 13-2288A, 13-2291, 13-2298

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before November 8, 2010. Your cooperation is appreciated.

Sincerely,

Sharla Cox
Administrative Assistant

Enclosure(s)

Cox, Sharla

From: Cox, Sharla
Sent: Wednesday, October 13, 2010 10:03 AM
To: 'klewis@lmtribune.com'
Subject: Legal Ad for your paper

Contacts: Lewiston Morning Tribune

October 13, 2010

Legal Notice Department
LEWISTON MORNING TRIBUNE
505 C ST PO BOX 957
LEWISTON ID 83501

RE: Legal Ad

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before November 8, 2010. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant
Department of Water Resources
900 N Skyline Dr Ste A
Idaho Falls ID 83402
208-525-7161
208-525-7177 – fax
sharla.cox @idwr.idaho.gov

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 76833

PRESTON WHITNEY IRRIGATION CO, PO BOX 311, PRESTON, ID 83263 has filed Application No. 76833 for changes to the following water rights within FRANKLIN County(s): Right No(s). 13-2108, 13-2288, 13-2288A; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp.

The purpose of the transfer is to change a portion of the above rights as follows:

The applicant proposes to change the place of use by defining the area and the storage water rights of Glendale Reservoir. The points of diversion remain the same, but are identifying points of injection and redirection. 6000 af. The place of use is within the service area of the Preston Whitney Irrigation Co for 16,666.3 acres.

TRANSFER NO. 76834

PRESTON WHITNEY IRRIGATION CO, PO BOX 311, PRESTON, ID 83263 has filed Application No. 76834 for changes to the following water rights within FRANKLIN County(s): Right No(s). 13-2291; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp.

The purpose of the transfer is to change a portion of the above rights as follows:

The applicant proposes to change the place of use by defining the area and storage water right of Lamont Reservoir. The points of diversion remain the same, but are identifying points of injection and redirection. 2407.5 af. The place of use is within the service area of the Preston Whitney Irrigation Co for 4156.2 acres.

TRANSFER NO. 76835

PRESTON WHITNEY IRRIGATION CO, PO BOX 311, PRESTON, ID 83263 has filed Application No. 76835 for changes to the following water rights within FRANKLIN County(s): Right No(s). 13-2298; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp.

The purpose of the transfer is to change a portion of the above rights as follows:

The applicant proposes to change the place of use by defining the area and storage water right for Foster Reservoir. The points of diversion remain the same, but are identifying points of injection and redirection. 3355 af. The place of use is within the service area of the Preston Whitney Irrigation Co for 5059.9 acres.

Protests may be submitted based on the criteria of Idaho Code Sec. 42-222.

Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before **November 8, 2010**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on October 21 and 28, 2010

Sharla

Sharla Cox
Administrative Assistant
Idaho Department of Water Resources
900 N. Skyline Dr. Ste. A
Idaho Falls ID 83402
208-525-7161 - telephone
208-525-7177 - fax
sharla.cox@idwr.idaho.gov

October 13, 2010

LEGAL NOTICE DEPARTMENT
LEWISTON TRIBUNE
505 C ST PO BOX 957
LEWISTON, ID 83501

RE: Transfer No. 76833, 76834, 76835,
Water Right No(s). 13-2108, 13-2288, 13-2288A, 13-2291, 13-2298

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before November 8, 2010. Your cooperation is appreciated.

Sincerely,

Sharla Cox
Administrative Assistant

Enclosure(s)

Cox, Sharla

From: Cox, Sharla
Sent: Wednesday, October 13, 2010 10:02 AM
To: 'legals@idahostatesman.com'
Subject: Legal Ad for your Paper

Contacts: Idaho Statesman



Idaho Statesman
1.RTF

Sharla

Sharla Cox
Administrative Assistant
Idaho Department of Water Resources
900 N. Skyline Dr. Ste. A
Idaho Falls ID 83402
208-525-7161 - telephone
208-525-7177 - fax
sharla.cox@idwr.idaho.gov

October 13, 2010

LEGAL NOTICE DEPARTMENT
IDAHO STATESMAN
PO BOX 40
BOISE, ID 83707

RE: Transfer No. 76833, 76834, 76835,
Water Right No(s). 13-2108, 13-2288, 13-2288A, 13-2291, 13-2298

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before November 8, 2010. Your cooperation is appreciated.

Sincerely,

Sharla Cox
Administrative Assistant

Enclosure(s)

Cox, Sharla

From: Cox, Sharla
Sent: Wednesday, October 13, 2010 10:13 AM
To: 'copy@prestoncitizen.com'
Subject: Legal Ad for your paper

Contacts: Preston Citizen



Preston Citizen
E-Mail.doc

Sharla

Sharla Cox
Administrative Assistant
Idaho Department of Water Resources
900 N. Skyline Dr. Ste. A
Idaho Falls ID 83402
208-525-7161 - telephone
208-525-7177 - fax
sharla.cox@idwr.idaho.gov

October 13, 2010

LEGAL NOTICE DEPARTMENT
PRESTON CITIZEN
PO BOX 472
PRESTON, ID 83263

RE: Transfer No. 76833, 76834, 76835,
Water Right No(s). 13-2108, 13-2288, 13-2288A, 13-2291, 13-2298

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before November 8, 2010. Your cooperation is appreciated.

Sincerely,

Sharla Cox
Administrative Assistant

Enclosure(s)

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TRANSFER NO. 76834

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The purpose of the transfer is to change a portion of the above rights as follows:

The applicant proposes to change the place of use by defining the area and storage water right of Lamont Reservoir. The points of diversion remain the same, but are identifying points of injection and redirection. 2407.5 af. The place of use is within the service area of the Preston Whitney Irrigation Co for 4156.2 acres.

TRANSFER NO. 76835

PRESTON WHITNEY IRRIGATION CO, PO BOX 311, PRESTON, ID 83263 has filed Application No. 76835 for changes to the following water rights within FRANKLIN County(s): Right No(s). 13-2298; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp.

The purpose of the transfer is to change a portion of the above rights as follows:

The applicant proposes to change the place of use by defining the area and storage water right for Foster Reservoir. The points of diversion remain the same, but are identifying points of injection and redirection. 3355 af. The place of use is within the service area of the Preston Whitney Irrigation Co for 5059.9 acres.

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GARY SPACKMAN, Interim Director

Published on October 21 and 28, 2010