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JUN 29 2010

Department of Water Resources
Eastern Region

Attorneys for Eldon and Mary Ann Golightly,
Grant and Linda Chadwick, Bert and Laura Wheatley
Seth and Beth Wheatley, and Wheatley Properties, LLC

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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN RE:

PRESTON-WHITNEY IRRIGATION CO.
TEMPORARY CHANGE APPLICATION,
JUNE 24, 2010

MOTION FOR STAY

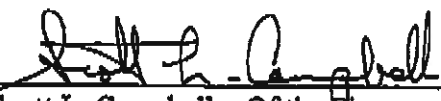
Eldon and Mary Ann Golightly, Grant and Linda Chadwick, Bert and Laura Wheatley, Seth and Beth Wheatley, and Wheatley Properties, LLC, (hereinafter, collectively "Petitioners"), pursuant to IDAPA 37.01.01.260, hereby move for an order of the Director of the Idaho Department of Water Resources (the "Department"), staying all further processing of the Temporary Change Application filed by Preston-Whitney Irrigation Co. on June 24, 2010 (Exhibit A hereto) until a hearing before the Director has taken place at which time the

allegations of the Petition for Hearing filed in this matter can be heard and be determined by the Director.

If the Temporary Change Application is processed by the Eastern Region of the Idaho Department of Water Resources pending a hearing before the Director, an unfair advantage will be obtained by Preston-Whitney Irrigation Co. as to the allegations of the Petition for Hearing. Additionally, the Petitioners will be prejudiced by such processing because of the pre-determination already communicated by James Cefalo of the Eastern Region Office of the Department at the Second Pre-Hearing Conference in Transfer Proceeding No. 75705 on June 28, 2010. At said pre-hearing conference, James Cefalo indicated that the Temporary Change Application would likely be approved by the Department. Consequently, an immediate stay preventing such unjustified approval, should be issued pending resolution of the legal and factual issues asserted by the Petitioners in the Petition for Hearing.

DATED this 29th day of June, 2010.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Scott L. Campbell – Of the firm
Attorneys for Eldon and Mary Ann
Golightly, Grant and Linda Chadwick,
Bert and Laura Wheatley, Seth and Beth
Wheatley, and Wheatley Properties, LLC,
Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29~~th~~ day of June, 2010, I caused a true and correct copy of the foregoing MOTION FOR STAY to be served by the method indicated below, and addressed to the following:

Director
IDAHO DEPARTMENT OF WATER RESOURCES
322 E. Front Street, 6th Floor
P.O. Box 83720
Boise, ID 83720

☐ U.S. Mail, Postage Prepaid
☒ Hand Delivered
☐ Overnight Mail
☐ Facsimile

IDAHO DEPARTMENT OF WATER RESOURCES
Eastern Region Office
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile

HOLDEN KIDWELL HAHN & CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

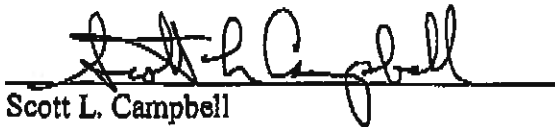
☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile

PRESTON-WHITNEY IRRIGATION CO.
P.O. Box 311
Preston, ID 83263

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Land Management
ATTN: Fredric W. Price
1387 S. Vinnell Way
Boise, ID 83709

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile



Scott L. Campbell

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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JUN 24 2010

Department of Water Resources
Eastern RegionTEMPORARY CHANGE APPLICATION
(To change point of diversion, place of use or purpose of use)Name of Applicant Preston-Whitney Irrigation Co. Phone _____Post Office address PO Box 311, Preston, ID 83263

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☐ Change purpose of use ☒ Other - Add Point of Diversion

2. Describe the proposed change(s) and the reason(s) thereof: To allow the Glendale Canal to be used as a POD for Water Right No. 13-2 and the Middle Ditch as a POD for Water Right Nos. 13-3 and 13-2104. There is a pending formal transfer to accomplish this change in order for the water rights to comport with the Applicant's historical use (Transfer No. 75705) of using multiple PODs.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

- | Right Number | Priority | Amount (cfs/ac-ft) | Nature of Use | Period of use |
|----------------|-------------------|--------------------|-------------------|-----------------------|
| <u>13-2</u> | <u>04/01/1882</u> | <u>30 cfs</u> | <u>Irrigation</u> | <u>04/01 To 10/31</u> |
| <u>13-3</u> | <u>04/01/1882</u> | <u>25 cfs</u> | <u>Irrigation</u> | <u>04/01 To 10/31</u> |
| <u>13-2104</u> | <u>03/14/1924</u> | <u>25 cfs</u> | <u>Irrigation</u> | <u>04/01 To 10/31</u> |

2. Total amount of water being transferred 80 Cubic feet per second and/or _____ Acre-feet per annum.

3. Source of water Cub River Tributary to Bear River

4. Point(s) of Diversion:

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		NW	NE	NW	8	15S	41E	FRANKLIN	CUB RIVER/GLENDALE CANAL
		NW	NW	NE	24	15S	40E	FRANKLIN	MIDDLE DITCH

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			SEE POU DESCRIPTION FROM TRANSFER NO. 75705																

6. General Information:

- a. Who owns the water right to be changed? Applicant
- b. Describe the arrangement allowing use of the right: Applicant owns the water rights and distributes the water to its stockholders.
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application: No effects on historically irrigated lands.
- d. Has the water right sought to be transferred been used this year? Yes If yes, explain. The Applicant has diverted water for irrigation purposes.
- e. Absent the changes, how would the right be used for the remainder of the year? The rights would be used as ordered by IDWR, which limits the location where they can be diverted.
- f. Describe other water rights used for the same purpose. 13-2108, 13-2288, 13-2288A, 13-2291, 13-2298
- g. Remarks: This temporary transfer will permit the Applicant to better utilize its water supply at its various diversion points.

I hereby assume all risk in accordance with Section 42-222A, Idaho Code, and assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. 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 voiding its approval.

Robert L. Jannin, Attorney
(Signature of Applicant)

FOR DEPARTMENT USE ONLY

Received by: _____ Date _____ Fee _____

Receipted _____ # _____ Recommend: _____ Approval _____ Deny _____

Watermaster recommendation _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. _____ and said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____,

For the Director