

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

IN THE MATTER OF TRANSFER NO. 4234)
OF WATER RIGHT NO. 63-3181 IN THE)
NAME OF LARRY WHEATON)
_____)

**PRELIMINARY ORDER
RESCINDING TRANSFER**

FINDINGS OF FACT

1. On April 4, 1994 the Department of Water Resources ("Department") approved Application for Transfer No. 4234 ("transfer") submitted in the name of Larry Wheaton ("right holder"). The transfer changed the nature of use of 14 acres of irrigation use authorized under Water Right No. 63-3181 to commercial and heating use.

2. The transfer approval included condition numbers 2 and 3 as follows:

- 2) The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
- 3) Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.

3. On December 19, 2008, the right holder through his attorney S. Bryce Farris asked the Department to rescind the transfer approval allowing the right to revert back to irrigation use as authorized before the transfer was approved. The request explained that the transfer changes have not been accomplished.

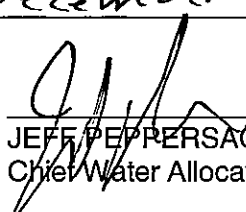
CONCLUSIONS OF LAW

1. The Department is authorized to issue preliminary orders changing a prior approval.
2. The right holder having shown sufficient cause, the Department should issue a preliminary order rescinding the April 4, 1994 transfer approval.

ORDER

IT IS THEREFORE HEREBY ORDERED that Transfer No. 4234 approved on April 4, 1994 is **RESCINDED** and that the right shall revert back to irrigation use as licensed prior to the transfer approval.

Dated this 23 day of December, 2008.



JEFF PEPPERSACK
Chief Water Allocation Bureau