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DEC 30 1994

Department of Water Resources

December 28, 1994

Josephine P. Beeman, Esq.
MOFFATT, THOMAS, BARRETT
ROCK & FIELDS
P.O. Box 829
Boise, Idaho 83701

Re: Preston-Whitney Irrigation Company Petition to Extend Water Master's Term of
Service MTBR&F File No. 16-832

Dear Jo:

We have visited briefly with the president of Preston-Whitney Irrigation Company regarding the contents of your letter of December 22, 1994, and have been instructed to respond as follows.

First, the company officers will be pleased to meet and/or have us meet with you to discuss the matters pertaining to the transfers and any other issues regarding the City of Preston. We understand, as you do, that the company has not protested the City's Application for Transfer Right No. 13-0026. From previous work we did for the company several years ago, however, we understood that the amount to which the city is entitled under the old contract is not 2.5cfs but rather 1/18th of the amount to which Cub River Irrigation Company is entitled, not to exceed 2.5cfs.

In any event, Preston-Whitney has been confident that Idaho Department of Water Resources would deal with the Application for Transfer justly and correctly. Will IDWR permit the diversion and use of the 2.5cfs before the proposed transfer is approved? And would Preston-Whitney's consent be relevant?

We are not authorized to agree to the interim delivery of any amount. We feel the Board of Directors would be remiss in doing so. How then would they defend themselves from claims of stockholders, to whom they owe a fiduciary duty, that they failed to take appropriate action to see that all water to which the company is entitled by its water rights is diverted and stored during the nonirrigation season?

That is, of course the reason for the petition requesting extension of water masters term of service was filed in the first place. We think the company's Board of Directors must insist and do all it reasonably can to persuade IDWR to grant that petition at the earliest possible moment.

Josephine P. Beeman, Esq.
December 28, 1994
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The company does not have an official position as to the correct amount of water to which the City may be entitled under its existing rights during the nonirrigation season. Some of the officers have heard that measurements of springs recently made totalled 2.18cfs under the approved transfers. If so, the company has no other information with which to contest such a delivery by the State's water master.

We will certainly look forward to working with you toward an informal resolution as you suggest. In the meantime, we perceive the company officers to be fairly adamant that IDWR should do its duty.

Very truly yours,



Kent W. Foster

pc. Randy Budge, Cub Irrigation Company
Tim Luke, IDWR Boise office
Harold Jones, IDWR Idaho Falls office
Phil Racier, IDWR Boise office

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