

CHRIS M. BROMLEY
IDAHO STATE BAR NO. 6530
CANDICE MCHUGH
IDAHO STATE BAR NO. 5908
MCHUGH BROMLEY, PLLC
Attorneys at Law
380 S. 4th St., Ste. 103
Boise, ID 83702
Telephone: (208) 287-0991
Facsimile: (208) 287-0864
cbromley@mchughbromley.com
cmchugh@mchughbromley.com

Attorneys for City of Heyburn

RECEIVED

Mar 01, 2024

DEPARTMENT OF
WATER RESOURCES

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

IN THE MATTER OF TRANSFER NO.
87938 IN THE NAME OF CITY OF
HEYBURN

REQUEST FOR HEARING

COMES NOW, Petitioner City of Heyburn, by and through McHugh Bromley, PLLC, and pursuant to Idaho Code § 42-1701A(3), hereby requests a hearing before the Idaho Department of Water Resources (“IDWR” or “Department”) in the above-captioned matter.

On January 16, 2024, IDWR issued its *Preliminary Order* approving *Transfer Application No. 87938* (“Transfer”) signed by Corey Skinner, IDWR Southern Regional Manager. A purpose of the *Transfer* was to incorporate certain domestic and commercial water rights into the City’s municipal system by changing the purpose of use of those rights to municipal. In the *Preliminary Order*, the Department reduced the volume for certain domestic and commercial water rights from the volume that was previously licensed by IDWR and/or partially decreed in the Snake River Basin Adjudication.

On January 30, 2024, the City filed a *Petition for Reconsideration*, asking the Department to reconsider its decision to reduce the volumes and the lack of explanation as to why domestic, commercial, and municipal water rights are treated differently.

On February 20, 2024, Mr. Skinner issued a *Preliminary Order Granting Petition for Reconsideration and Amending Transfer Approval*, in which the Department did not address the differences between domestic, commercial, and municipal water rights and further reduced the volume for water right no. 36-8332 from 0.90 acre-feet to zero (0) acre-feet: "When approving the transfer, the Department did not properly consider the historic consumptive use in approving the nature of use change from commercial to municipal use for water right 36-8332."

Preliminary Order Granting Petition for Reconsideration and Amending Transfer Approval at 3.

Pursuant to Idaho Code § 42-1701A(3), the City hereby requests a hearing in the above-captioned matter, including but not limited to the Department's decision to treat domestic, commercial, and municipal water rights differently and the decision to reduce the volumes associated with the domestic and commercial water rights that were the subject of the *Transfer* from the volumes established by prior licenses and/or partial decree to a lesser quantity. The City reserves the right to raise any issues identified by the City at the hearing that relate to the decisions issued by the Department in the above-captioned proceeding.

DATED this 1st day of March, 2024.



Chris M. Bromley
McHugh Bromley, PLLC
Attorneys for City of Heyburn

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of March, 2024, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by electronic service:

IDAHO DEPARTMENT OF WATER RESOURCES
PO Box 83720
Boise, ID 83720
file@idwr.idaho.gov

/s/ Chris M. Bromley
CHRIS M. BROMLEY

Maline, Denise

From: Chris Bromley <cbromley@mchughbromley.com>
Sent: Friday, March 1, 2024 8:40 AM
To: IDWR File
Cc: Baxter, Garrick; Skinner, Corey; Candice McHugh; 'Paul Ross'
Subject: City of Heyburn Request for Hearing re Transfer No. 87938
Attachments: 20240301 Request for Hearing.pdf

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Please see the attached request for hearing filed on behalf of the City of Heyburn *In the Matter of Transfer No. 87938 in the Name of the City of Heyburn.*

Thank you,

Chris M. Bromley
McHugh Bromley, PLLC
380 S. 4th St., Ste. 103
Boise, Idaho 83702
(208) 287-0991
www.mchughbromley.com