

TO: TIM LUKE  
FROM: NORM *NJ*  
RE: CITY OF PRESTON USE OF WATER  
DATE: NOVEMBER 11, 1994

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I am not sure I understand the questions that are being asked about the use of the City's rights. Let's discuss.

Some observations from a quick look at the files:

1. The two transfers involving right 13-00026 appear to be still pending. If so, the City has no right to divert under this right from the spring.
2. The transfers approved on 13-00027 and 13-00028 allow diversion for municipal purposes. Ron Carlson advised the City's attorney that hydropower use would require a change in nature of use and asked for the applications to be changed. Apparently they were not. The municipal uses must be sufficient to require diversion or the water should not be diverted if it is only needed for hydropower.  
*1907/1908  
for hydropower - 13-00027  
from Berquist Spring*
3. The City's attorney acknowledged that the diversion from Berquist spring under the Birch Creek right could not exceed the actual flow of Birch Creek. See marker in file #13-00027.
4. In the same letter the attorney argues for year around use of water under the 1906 decree. Carlson indicated the use would be limited to the irrigation season. I agree with Ron, but cannot find a basis for doing so.  
*1906  
year around use  
for Preston City*