



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

July 8, 2010

Rob Harris  
HOLDEN KIDWELL  
PO Box 50130  
Idaho Falls, ID 83405-0130

Re: Application for Temporary Transfer for Preston-Whitney Irrigation Co.

Dear Mr. Harris:

I reviewed an application for temporary transfer filed by the Preston-Whitney Irrigation Company (Preston-Whitney). You signed the application. I also reviewed an application for permanent transfer filed by Preston-Whitney and protested by Eldon Golightly. The application for temporary transfer seeks the addition of points of diversion also proposed by the application for permanent transfer. The application for temporary transfer describes the purpose of the temporary transfer:

. . . 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.

In other words, the application for temporary transfer seeks partial approval of the change sought by the application for permanent transfer during the pendency of the application and protest resolution.

Idaho Code § 42-222A(6) states:

Temporary transfers shall only be approved for the purpose of providing a replacement water supply to lands or other uses which normally have a full water supply except for a drought conditions.

As I read the application for temporary transfer, it does not propose a "replacement water supply." The application also does not assert that drought conditions have resulted in less than a full water supply. The application for temporary transfer seeks recognition of alleged historical practices. These factual matters are likely the subject of the protest filed against the application for permanent transfer.

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Without additional facts, the limitations of Idaho Code § 42-222A(6) require that I deny the application for temporary transfer. This letter seeks any additional information you may have to support the application. Any additional facts must be submitted within 14 days of the date of this letter. Please carbon copy all documents sent to the Department to Scott Campbell, counsel for Eldon Golightly.

Sincerely,



Gary Spackman

Cc: Scott Campbell  
Tim Luke ✓  
Garrick Baxter  
Lyle Swank  
James Cefalo  
Randy Budge