

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS)	ORDER GRANTING REQUEST
FOR TRANSFER NOS. 68302 AND 65886)	FOR HEARING, ORDER DENYING
IN THE NAME OF CITY OF PRESTON)	PETITION FOR RECONSIDERATION,
)	AND ORDER STAYING
_____)	PRELIMINARY ORDERS

On August 13, 2012, the Idaho Department of Water Resources (“IDWR”) issued preliminary orders amending the approval for the transfers captioned above (“transfers”). The orders were served by mail on August 14, 2012.

On August 28, 2012, City of Preston filed a petition for reconsideration of the preliminary orders. On August 29, 2012, City of Preston also filed a request for hearing on the matter. The petition for reconsideration and request for hearing were timely filed.

Rule 556 of IDWR’s Rules of Procedure states that IDWR “may consolidate two or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced.” The issues involved in the transfers and in the petition for reconsideration and request for hearing are related and City of Preston will be best served by consolidating the proceedings.

Idaho Code § 42-1701A(3) provides in relevant part that:

...any person aggrieved by any action of the director, including any decision, determination, order or other action, ...who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action.

Because City of Preston has not previously been afforded an opportunity for a hearing in this matter, IDWR will grant City of Preston’s request for a hearing.

With regards to City of Preston’s petition for reconsideration, IDWR will dispose of the petition by denying the petition and then will stay the matter pursuant to Rule 780 of IDWR’s Rules of Procedure which states that IDWR “may stay any interlocutory or final order on its own motion.” This will stay the consolidated proceeding until IDWR issues a decision after the hearing granted by this order or until IDWR issues an order lifting the stay.

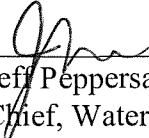
ORDER

IT IS HEREBY ORDERED that the proceedings for Transfer Nos. 68302 and 65886 are **CONSOLIDATED**.

IT IS FURTHER ORDERED that the request for hearing filed by City of Preston for Transfer Nos. 68302 and 65886 is **GRANTED**. Formal notice of the hearing will be served at a later date.

IT IS FURTHER ORDERED that the petition for reconsideration filed by City of Preston for Transfer Nos. 68302 and 65886 is **DENIED** and the preliminary orders are **STAYED**.

Dated this 6th day of September, 2012.



Jeff Peppersack
Chief, Water Allocation Bureau

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of September, 2012, I mailed a true and correct copy, postage prepaid, of the foregoing ORDER GRANTING REQUEST FOR HEARING, ORDER DENYING PETITION FOR RECONSIDERATION, AND ORDER STAYING PRELIMINARY ORDERS to the persons listed below:

RE: Transfer Nos. 68302 and 65886

MERVIN J BODILY
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LEWISTON UT 84320

RANDALL BUDGE
RACINE OLSON NYE BUDGE & BAILEY CHTD
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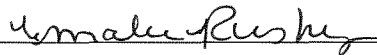
CITY OF PRESTON
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CLYDE G NELSON
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Emalee Rushing
Administrative Assistant