

06/13/2014

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: September 12, 2014

Water right number: 92-10502

DARCY MC INTURFF
17786 E CANARY CREEK RD
CATALDO ID 83810
Telephone Number: (209) 689-9309

JEFFREY P BAKER
715 N CHISHOLM COURT
POST FALLS ID 83854
Telephone Number: (208) 262-9248

DOUGLAS MC INTURFF
17786 E CANARY CREEK RD
CATALDO ID 83810

WILLIAM ROSS
PO BOX 161
SAINT MARIES ID 83861
Telephone Number: (208) 245-3065

RECEIVED

SEP 04 2014

IDWR / NORTH

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

NAME AND ADDRESS

(REMOVE NAME + ADDRESS OF MCINTURFFS + ROSS)

2. Describe the changes you wish to make in the proposed recommendation:

JEFFREY P. + MARY LOU BAKER, AS TRUSTEE OF THE
JEFFREY + MARY LOU BAKER LIVING TRUST,
DATED JUNE 26, 2013

3. Give a brief explanation as to why you disagree with these portions:

TO REFLECT TRUST OWNERSHIP

(SEE ATTACHED NOTICE OF ERROR REPLY, "PAGE 2")

I AGREE with this proposed recommendation: no changes need to be made.

DATE: 9/2/2014

SIGNATURE:

name:

Jeffrey P. Baker

JEFFREY P. BAKER

Drive, Suite 100, Coeur D' Alene, ID 83815, (208) 762-2800

92-10502

LOWER FIELD

PAGE 1

Notice of Error
Reply
Page 2

Right Number: 92-10502

With reference to the three items on IDWR form "Notice of Error Reply," page 1, attached:

1. The portion of the proposed recommendation with which I disagree is the "Name and Address" portion.
2. The change I wish to make in the proposed recommendation is that the Name and Address should read as follows:

Jeffrey P. & Mary Lou Baker, as Trustees of the Jeffrey & Mary Lou Baker Living Trust, dated June 26, 2013
715 N Chisholm Ct.
Post Falls, ID 83854

Other names and addresses should be removed.

3. The explanation as to why the other names should be removed is that the Jeffrey & Mary Lou Baker Living Trust is the sole owner of the appurtenant land (RP45N02W02100CA) and the Trust is applying for the sole ownership of the water right appurtenant to the property.

William Ross owns a separate parcel (RP45N02W021004A) and should be removed from this water right. He has applied for a separate water right with a separate point of diversion for his own appurtenant property. (See attached image)

Darcy McInturff and Douglas McInturff should be removed from the water right because they do not own the appurtenant property and as of the end of the 2014 crop year (approximately the end of September 2014) will not have an easement, actual or implied, to the point of diversion, place of use, nor beneficial use of the water. (See attached copy of letter to McInturffs)

The McInturff's have claimed ownership of the water right by virtue of a "Sale of Wild Rice Harvesting Business Agreement" dated July 15, 2001 (on file with IDWR). The agreement does not include a warranty deed to the ownership of the water right. The water right was never separated from the appurtenant land by written or verbal contract. The "Sale Agreement" did not properly transfer ownership of the water right to the McInturff's. Moreover, the paragraph labeled "Water Rights:" specifically excludes the licenses pertaining to the fields owned by the Jeffrey & Mary Lou Baker Living Trust. The paragraph states, "The licenses pertaining to Jeff Bakers (sic) fields were given to him earlier." Clearly, the intent of the Sale Agreement did not include transfer of ownership of water rights appurtenant to land owned by the Trust.

The McInturff's do not have a valid claim on the water right and their names should be removed from it.