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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Jeffrey C. Shippy

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF AND FOR IDAHO, IN THE COUNTY OF TWIN FALLS**

In Re CSRBA	)	SUBCASE NO. 91-7094
	)	
Case No. 49576	)	SHIPPY'S REPLY IN SUPPORT OF
	)	NOTICE OF CHALLENGE
	)	
	)	
	)	

Douglas and Darcy McInturff ("McInturff") filed a pro se response to Shippy's opening brief on July 6, 2017. McInturff's response asserts that Al Bruner was somehow involved with the St. Maries Wild Rice Growers and St. Maries Wild Rice Inc. and therefore, had the authority to sell a license obtained by St. Maries Wild Rice Growers to McInturff. What is more important in McInturff's response is his admission that there is no documentation of the sale of the water right from St. Maries Wild Rice Growers to St. Maries Wild Rice Inc. or to Mr. Bruner. Idaho Code § 55-601 requires a writing to transfer a property right. Of course, a water right is a property right. McInturff's admission that there's not any writing transferring the property right means that whatever McInturff bought from Mr. Bruner did not include a water right.

In addition, it is also important what McInturff's response brief does not say. McInturff does not dispute any of the facts set forth in Shippy's opening brief. There was no long-term lease on the Robinson property in the name of St. Maries Wild Rice Growers or anyone else. The Robinsons refused to give a long-term lease and St. Maries Wild Rice Growers' principals believed that the language of the permitted license declaring the right appurtenant to the Robinson land was a recognition of the Robinsons' interest in the water right. McInturff does not dispute that the water right licensed was expressly conditioned to be appurtenant to the Robinson land. He does not dispute that Shippy is the successor in interest to Robinsons in ownership of that land. McInturff does not dispute that the transfer he filed was not provided to Robinson, St. Maries Wild Rice Growers or the public. Thus, there was no public opportunity for anyone to object to the transfer.

McInturff does not contend that the decree should not include the condition that the water right is appurtenant to Shippy's land or that the intent behind licensing and permitting this right was that it would remain appurtenant to the Robinsons' (now Shippy's) land.

Thus, Shippy as the successor in interest to Robinsons is entitled to have the water right decreed appurtenant to his land.

DATED this 13th day of July, 2017.

BARKER ROSHOLT & SIMPSON LLP



Albert P. Barker
Attorneys for Jeffrey C. Shippy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th day of July, 2017, I served true and correct copies of the foregoing **SHIPPY'S REPLY IN SUPPORT OF NOTICE OF CHALLENGE** upon the following by the method indicated:

SRBA District Court
253 3rd Ave. North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☒ Facsimile
☐ Email

Darcy and Douglas McInturff
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