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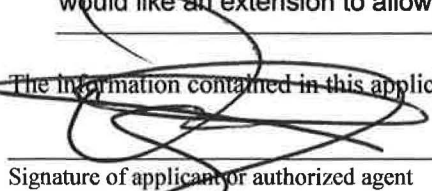
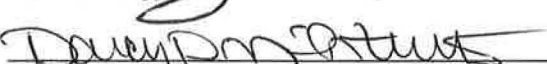
DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR EXTENSION OF TIME TO AVOID
FORFEITURE OF A WATER RIGHT

Section 42-222(4), Idaho Code, provides that a water right holder may apply to protect a valid water right from forfeiture. Upon a showing of reasonable cause, the Director may grant one (1) extension of five (5) years in which to resume use.

1. Water Right No. 91-7094 (one right per application)
☒ Attach a copy of the water right record, available at <http://www.idwr.idaho.gov>, *Water Right Transfers, Step 1*, or by contacting any Department office.
2. Applicant Douglas and Darcy McInturff Phone (208) 689-9308
3. Are you the current water right holder of record? Yes ☒ No ☐
☐ If no, provide documentation of your authority to sign on behalf of the right holder -- OR -- attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee.
4. Mailing address ☐ Same as water right record -- OR -- complete the following information:
 Address 17786 East Canary Creek Road City Cataldo
 State Idaho Zip code 83810 Email darcymcinturff@aol.com
5. Give the last date water was beneficially used September 2014
6. Explain your reasons for non-use of the water right and your reasons for requesting an extension of time.
 Attach additional documentation if needed.

This water right has not been used because the ownership was challenged and litigation has been ongoing from 3/12/15 until 8/27/19 when the Idaho Supreme Court affirmed that the McInturffs are owners of this water right. We would like an extension to allow time to find a new point of diversion and beneficial place of use. Please see attached.

The information contained in this application is true to the best of my knowledge.

	<u>Douglas McInturff</u>	<u>11/15/19</u>
Signature of applicant or authorized agent	Print name (and title, if applicable)	Date
	<u>Darcy McInturff</u>	<u>11/15/19</u>
Signature of applicant or authorized agent	Print name (and title, if applicable)	Date

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby said application, subject to the following conditions or reasons:

The right holder shall resume beneficial use of water *on or before*

Signed this day of , 20 . Title:

Stamped received ☒ Fee receipted by  Date 11/15/19 Receipt # C107995

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 91-7094

Current Owner: DARCY MC INTURFF
DOUGLAS MC INTURFF

Priority Date: 11/23/1983

Origin: Adjudication Recommendation

Status: Active

Basis: License

Source

ST JOE RIVER
UNNAMED STREAM

Tributary

COEUR D ALENE LAKE
ST JOE RIVER

Beneficial Use

IRRIGATION

From To

03/15 to 11/15

Total Diversion

Diversion Rate

1.4 CFS

1.4 CFS

Annual Volume

210 AF

210 AF

Location of Point(s) of Diversion

UNNAMED STREAM

BENEWAH County

ST JOE RIVER

BENEWAH County

L2(NE1/4NW1/4) Sec. 18, Twp 46N, Rge 01W B.M.

L2(NE1/4NW1/4) Sec. 18, Twp 46N, Rge 01W B.M.

Place of Use

IRRIGATION Within BENEWAH County

T46N R01W S7	Lot 4	SWSW	1.50	T46N R01W S7	SESW	22.00
T46N R01W S18	Lot 1	NENE	1.50	T46N R01W S18	NWNE	23.00
T46N R01W S18	Lot 7	SWNE	5.00	T46N R01W S18	Lot 2 NENW	17.00

Total Acres: 70

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. PIN Parcel Nos. RP46N01W077700A and RP46N01W181000A
3. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

water right 91-7094

SUMMARY STATEMENT

McInturff v. Shippy

Docket No. 45418

The appeal arose from a disputed water right relating to the St. Joe River in Benewah County, Idaho, between a landowner and tenants who put the water to beneficial use. The license at issue described the water right as "appurtenant to the described place of use." The Idaho Supreme Court held that the tenants owned the water right under the license. Further, the Court held that Shippy and Cedar Creek had failed to timely assert their rights and that the district court did not have jurisdiction to address their claim.

IN THE SUPREME COURT OF THE STATE OF IDAHO
Docket No. 45418

In Re: CSRBA CASE NO. 49576,
SUBCASE NO. 91-7094.

DOUGLAS MCINTURFF and DARCY
MCINTURFF,

Claimants-Respondents,

v.

JEFFREY C. SHIPPY,

Objector-Appellant.

Coeur d'Alene, August 2018
Term

Filed: August 27, 2019

Karel A. Lehrman, Clerk

Appeal from the Fifth Judicial District of the State of Idaho, Twin Falls County.
Eric J. Wildman, District Judge.

The district court's partial decree is affirmed.

Barker, Rosholt & Simpson, LLP, Boise, for appellant Jeffrey C. Shippy. Albert
P. Barker argued.

Douglas McInturff and Darcy McInturff, Cataldo, respondents *pro se*. Douglas
McInturff argued.

STEGNER, Justice.

This appeal arises from a disputed water right relating to the St. Joe River in Benewah County, Idaho, between a landowner and the tenants who put the water to beneficial use. The license at issue described the water right as "appurtenant to the described place of use." The landowner argues that the water right is appurtenant to his land, while the tenants contend that the right was developed and owned by their predecessors in interest and now belongs to them by virtue of their having purchased the interest. The district court ultimately adopted the Special Master's report and issued a partial decree, which listed the tenants as the owner of the license. For the reasons set out in this opinion, we affirm the district court's decree.

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, March 12, 2020 9:47 AM
To: 'jamie@smgazette.com'
Subject: Legal Notice for Your Paper
Attachments: Extension of Time Legal Notice_91-7094.docx

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notices which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office, PO Box 83720, Boise, Idaho, 83720-0098 before April 6, 2020. Your cooperation is appreciated.

Sincerely

Jean Hersley
Technical Records Specialist II
IDWR State Office
322 E Front St
Boise ID 83720
208-287-4942
jean.hersley@idwr.idaho.gov

NOTICE OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE

DOUGLAS AND DARCY MCINTURFF, 17786 EAST CANARY CREEK RD, CATALDO ID 83810, have filed an Extension of Time to Avoid Forfeiture for water right 91-7094, with a priority date of 11/23/1983 from an unnamed stream, tributary to St Joe River, and from St Joe River, tributary to Coeur D'Alene Lake, in the amount of 1.4 cfs, 210.0 af, and 70 acres of irrigation. Water right 91-7094 was partially decreed on 08/17/2017. The extension is requested to avoid loss of the water right due to a lack of access to the authorized place of use, and to provide time to propose a transfer of the water to a new place of use. The right historically served property at Cedar Creek Ranch, approximately 4 miles to the Northeast of St Maries on St Joe Rd.

For additional information concerning the property location, contact the State office at (208) 287-4800; or for a full description of the right, please see <http://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the proposed application must be filed with the director, Dept. Water Resources, State Office, 322 E Front St, PO Box 83720, Boise, ID, 83720 together with a protest fee of \$25.00 for each application on or before 4/6/2020. The protestant must also send a copy of the protest to the applicant.

Gary Spackman, Director

Published 3/18/2020 and 3/25/2020



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 12, 2020

DOUGLAS MC INTURFF
DARCY MC INTURFF
17786 E CANARY CREEK RD
CATALDO ID 83810

RE: Extension of Time to Avoid Forfeiture of a Water Right 91-7094

Dear Applicant(s):

The Department of Water Resources has received your Extension of Time to Avoid Forfeiture application. Please refer to the water right number referenced above in all future correspondence regarding this extension.

A legal notice of the application has been prepared and is scheduled for publication in the ST. MARIE GAZETTE RECORD on 03/18/2020 AND 03/25/2020. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office at (208) 287-4800 if you have any questions regarding the application.

Sincerely,

Jean Hersley
Technical Records Specialist