

COPY

Form 42-222(4) Rev. 06/12
FEE \$100.00

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

AUG 07 2017

WATER RESOURCES
WESTERN REGION

APPLICATION 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. 61-2248B (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 Don and Carol McFarland Phone (208) 731-6530
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 _____ City _____
State _____ Zip code _____ Email _____
5. Give the last date water was beneficially used 2007
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.
Same as 61-7189

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

	<u>Don McFarland</u>	<u>Aug 2, 2017</u>
Signature of applicant or authorized agent	Print name (and title, if applicable)	Date
_____ 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 received by  Date 8/7/17 Receipt # W045566



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 16, 2017

COPY

DON AND CAROL MCFARLAND
C/O CHARLES E BROCKWAY
BROCKWAY ENGINEERING PLLC
2016 N WASHINGTON ST SUITE 4
TWIN FALLS ID 83301

Re: Water Rights 61-2248B and 61-7189 Application for Extension of Time to Avoid Forfeiture

Dear Mr. Brockway,

On August 7, 2017, the Idaho Department of Water Resources (IDWR) received two applications for Extension of Time to Avoid Forfeiture filed on behalf of Don and Carol McFarland for water rights 61-2248B and 61-7189. Per Idaho Code § 42-222(5)(c), the Director may grant one (1) Extension of Time to Avoid Forfeiture for up to five (5) years for a water right. A previous extension was granted for each of the rights in 2012, with a resumption of use date of August 31, 2017. Therefore, the two applications received August 7, 2017 are being returned and a refund of the filing fees has been requested (refund request memo enclosed).

Furthermore, IDWR staff sent Don and Carol McFarland a request to submit a Resumption of Use form for each water right, 61-2248B and 61-7189, on June 20, 2017. The forms were requested to be submitted by the resumption of use date, August 31, 2017. Reviewing information received August 7, 2017, it appears use of these rights may have resumed in February of 2017 (Narrative in Support of Application for Extension of Time to Avoid Forfeiture paragraph 2). If this is the case, please complete the enclosed Resumption of Use forms and return to IDWR.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you have any questions. Thank you for your attention to this matter.

Sincerely,

Angela M. Grimm, P.G.
Water Rights Supervisor

Enclosure(s): Application for Extension of Time to Avoid Forfeiture for 61-2248B and 61-7189
Copy of Refund Request Memo
Resumption of Use forms

Cc: Don and Carol McFarland

MEMORANDUM

TO: Sascha Marston
FROM: Angela Grimm 
DATE: August 16, 2017
RE: Refund

Brockway Engineering PLLC paid \$200.00 for two applications for extension to avoid forfeiture on 8/7/2017. The applications were returned on 8/16/17 which eliminated the need for processing fees. A full refund should be issued.

Please issue a \$200.00 refund as follows:

TO

BROCKWAY ENGINEERING PLLC
2016 N WASHINGTON ST SUITE 4
TWIN FALLS ID 83301

TEL. 208-736-8543

RECEIPT

Receipt no. W045566

Copy: WR # 61-2248B & 61-7189



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

AUG 07 2017

WATER RESOURCES
WESTERN REGION

August 3, 2017

Mr. Nick Miller, Regional Manager
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705

Re: Don and Carol McFarland
Application for Extension of Time to Avoid Forfeiture
Water Rights 61-7189 and 61-2248B

Dear Nick:

Enclosed are two applications and fees to avoid forfeiture for water rights supporting a potato processing plant in Glenn's Ferry, Idaho on behalf of Don and Carol McFarland.

Please contact our office if you have any questions or need additional information.

Sincerely,



Charles E. Brockway P.E., PhD

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

Enclosures: Applications for Extension 61-7189 and 61-2248B
Water Right Reports
Narrative in Support of Applications
Water Right Review Update, Glenn's Ferry McFarland
Check # 14164 \$200

Cc: Don and Carol McFarland

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

8/2/2017

WATER RIGHT NO. 61-2248B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CAROL MCFARLAND
Current Owner	DON MCFARLAND PO BOX 5178 TWIN FALLS, ID 83303
Directors Report Owner	MAGIC WEST INC PO BOX 475 RUPERT, ID 83350 2084363126
Original Owner	IDAHO FRESH PAK INC PO BOX 130 LEWISVILLE, ID 83431-0130 2087548100

Priority Date: 04/03/1939

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
INDUSTRIAL	08/15	07/01	0.08 CFS	8 AFA
Total Diversion			0.08 CFS	

Location of Point(s) of Diversion:

GROUND WATER|SWSE|Sec. 29|Township 05S|Range 10E|ELMORE County

Place(s) of use:

Place of Use Legal Description: INDUSTRIAL ELMORE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05S	10E	29		SWSE										

Conditions of Approval:

1. WATER TEMPERATURE MEASURED AT 112 DEGREES F. USE OF THIS RIGHT IS COMBINED WITH WATER FROM THE CITY OF GLENNS FERRY. RIGHT NO. 61-07189 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
2. C04 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PURPOSE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
3. INDUSTRIAL USE IS FOR POTATO PROCESSING PLANT.
4. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
5. USE OF THIS RIGHT WITH RIGHT NO. 61-07189 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.67 CFS.
6. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
7. 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.

Dates:

Licensed Date:

Decreed Date: 01/04/2002

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number: 161

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit:

Combined Volume Limit:

Combined Rate Limit: 0.67

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

State of Idaho
Department of Water Resources

Water Right
61-2248B

INDUSTRIAL

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.

10E



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.035 0.07 0.14 Miles



Narrative in Support of Application for Extension of Time to Avoid Forfeiture

Don and Carol McFarland Water Permits 61-7189 and 61-2248B

Prepared by: Charles E. Brockway
Brockway Engineering, PLLC
Date: August 3, 2017

Both water permits were issued for potato processing at the Glenns Ferry plant and were utilized until 2007 when the plant operation was discontinued because the operation was no longer economical. The geothermal well water was utilized along with the City of Glenns Ferry municipal water within the plant. After operation ceased and water use from the well discontinued, the plant was owned by several entities until it was purchased by the McFarland's.

These changes in ownership required extended periods of time to consummate. Plant operation was commenced in February 2017 and is currently in operation for potato processing.

Currently, no waste water is being utilized on irrigated land, but as production increases, this use will be commenced.

Don and Carol McFarland

Glenn's Ferry Water Rights Review Update

Water Rights 61-7724, 61-2248B, 61-7189

Prepared by: Charles E. Brockway, PhD, P.E. Brockway Engineering, PLLC

Date: Revised August 2, 2017

A. Water Right Details

Three ground water rights are now owned by Don and Carol McFarland: 61-7189, 61-2248B, and 61-7724 applicable to the Glenn's Ferry Potato Processing project with cogeneration. All three of these rights were purchased from Brian and Cheri Baalman on December 29, 2015. Data contained herein has been obtained from IDWR current data base on August 2, 2017.

Table 1. Water Right Details-Glenns Ferry Processing Plant

Num ber	Priority	Beneficial Use	Discharge Rate cfs *	Vol afa	Season of Use	POD	POU	
61- 7189	7/10/1974 Decreed 1/4/2002	Industrial- Primary Potato Processing	0.67cfs combined with 61- 2248B	58	8/15- 7/01	SWS E 29 5S 10E	SWSE 29 5S 10E	Extended to Aug 31, 2017
61- 2248 B	4/3/1939	Industrial Primary Potato Processing	0.08 0.67 cfs when combined with 61- 7189	8.0	8/15- 7/01	SWS E 29 5S 10E	SWSE 29 5S 10E	Extended to Aug 31, 2017 with City water
61- 7724	9/27/1996 Licensed 6 Nov 2014	Industrial First Use Processing Cogeneration and waste-w	0.67 cfs w/ 61-7189 & 61-2248B	25 1	10/01- 12/31	SWS E 29 5S 10E	17, 40's Sec ,19, 29,30,	Separate Agreement

* Combined discharge for water rights 61-7189, 61-2248B and 61-7724

B. Water Use Measurement and Reporting

Permits and historical IDWR Orders require flow monitoring and reporting of water use from the single source (well) providing water to the three water rights. Hot water use measurement and monitoring is required and reporting on an annual basis from the well is required. IDWR approved in-pipe flow meters will be required on the pipe from the well. Currently the flow meter, mounted vertically on a pipe from the well to the production facilities, was a propeller type McCrometer at the time of the beneficial use exam for water right 61-7724 (7/2//2014), IDWR metal tag No. A0010043. However, data in the IDWR WIMIS file indicates that the flow meter type has been changed periodically over the years and at one time it was a Siemens Mag Meter. The McCrometer meter is a propeller type meter which is not on the approved meter list. Only magnetic type flow meters are approved and an application for a waiver or variance will be required to secure continued use of the McCrometer meter. In addition, the accuracy of the current flow meter will have to be verified by an approved Water Rights professional. It is recommended that an approved Mag meter be installed in an appropriate location so that continued flow monitoring will be more defensible.

An Order issued by IDWR on January 22, 1999, required that water use from the well be reported every 3 months beginning February 1999, and ending April 30, 1999. In addition the diverted volume from the well under water right 61-7189 and any other water rights diverted from the same point of diversion shall be reported every three months until such time as IDWR determines that annual reporting is sufficient. It is not known if this order was followed but it is apparently still in effect, the water right report for 61-7724 on the IDWR data base is the only one of the three current published water right reports that lists reporting requirements. A minimum of annual total volume of use should be reported to IDWR and, since cogeneration is listed as a separate nature of use, the appropriate flow meter(s) will be required if cogeneration is to be utilized.

C. Forfeiture

It was reported that the potato processing at the plant terminated in 2007 and the use of hot water for cogeneration terminated in 2009, the hot water use for processing has therefore not been utilized for some 10 years and hot water use for cogeneration has not been used for 8 years. A search of the IDWR files shows that an application for Extension of Time to Avoid Forfeiture of a Water Right for water rights 61-2248B and 61-7189 was approved on September 14, 2012 which extended the time for resuming beneficial use to August 31, 2017. Water right 61-7724 was licensed on November 6, 2014 so no Extension of Time to avoid forfeiture is required. There should be no forfeiture concerns for any of the three water rights except for the August 31, 2017 proof of beneficial use time.

D. Potential Water Supply Bank

Since no use of the water from the common hot water well has been identified since 2009, all or parts of these rights could have been offered for lease to the Idaho Water Supply Bank. That was apparently not done; however, the approved extension of time to avoid forfeiture protects these two rights. If immediate resumption of use is not contemplated, the Water Bank could be used to provide some income and forestall forfeiture concerns if necessary.

E. Constraints on Discharge and Volume

All three water rights have combined limits on discharge from the well. Essentially the combined discharge limit for the three water rights is 0.67 cfs even though the sum of the individual discharges is greater than 0.67 cfs.

Water diverted under any of these rights is considered waste water after being used for its primary use which is for the heat value in potato processing. After use for heat value (potato processing), water may be utilized for land application.

There are no combined limits on total volume for the three water rights, so the total allowed annual diversion volume is the sum of the individual volumes or $58 + 8 + 251 = 317$ AFA.

F. Cogeneration

Water Right 61-7724 is licensed for industrial use which included potato processing and cogeneration. Cogeneration is allowed only after the diverted water is used first for potato processing. The season of use for this right is from 1/01 to 12/31. This license allows a combined diversion with water rights 61-2248B and 61-7189 of 0.67 cfs. The allowed annual volume for water right 61-7724 for industrial use in food processing and cogeneration is 251 AF. The season of use for this right is for 365 days; however, the hot water can only be used for cogeneration after it has been used for its heat value. Since the period of use for water rights 61-7189 and 61-2248B is for 8/15 to 7/01 and their primary use is for potato processing (heat value), then the allowed period of use for 61-7724 for cogeneration is limited also to 8/16 to 7/01 or 320 days. If the allowed discharge of 0.67 cfs is utilized continuously for 320 days, the total volume would be 424.5 AF. However, the volume limit on 61-7724 is 251 AFA. It would seem, then, that the limits on use of any water for cogeneration are 0.67 cfs for a total volume of 251 AFA or 189 days of operation at 0.67 cfs.

G. Trust Water

All of the water rights are subject to a 20 year review by IDWR to determine availability of water and to re-evaluate the public interest. This condition is applicable to all permits or licenses deemed to be trust water according to the Swan Falls agreement between the State of Idaho and Idaho Power.

H. Separate Agreements

Water right 61-7724 is subject to agreements which were entered into during the adjudication process and require the owner to adhere to certain operating or potential mitigation requirements. Water rights 61-7189 and 61-2248B may also be subject to separate agreements. These requirements are not administered by IDWR and any breach of these agreements is a civil matter.

Receipt Details for ID W045566

Status	Adjustment Type	Version
		1

General Information:

Date Received 8/7/2017 4:37:50 PM	Date Deposited 8/7/2017 4:50:30 PM	Region WESTERN	Total Amount \$200.00	Payment Type Check
Payee: BROCKWAY ENGINEERING PLLC				

Account Information

Check Number 14164

Comment APPLICATION FOR EXDTENSION OF TIME TO AVOID FORFEITURE OF A WATER RIGHT FOR 61-7189 AND 61-2248B FROM APPLICANTS DON AND CAAROL MCFARLAND.

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$200.00	EXTENSIONS	62103	0229	21		1155

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

RESUMPTION OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the water right holder(s) has/have resumed the use of water for the water right identified below. This form **must** be returned to the department or the water right will revert to the state of Idaho.

Water Right Number(s) _____

Name of Water Right Holder(s) _____

Mailing Address _____

_____ Telephone Number _____

Source of Water (Groundwater/Surface) _____

Extent of Use: Domestic _____ (number of households)

Stockwater _____ (number and type of stock)

Irrigation _____ (number of acres irrigated)

Other/Remarks _____

Total rate and/or volume of use _____ cfs _____ acre feet

Show the date water use was resumed under this water right _____

Person to contact to accompany the Department representative if a field examination is conducted:

Name _____ Telephone No. _____

Address _____

The above information is my true statement of the extent to which diversion and use of the above-described water right has been resumed.

Date _____ Signature _____