

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 47-11236
Date Received: 11/9/1988
Receipt No: S003707
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

SENECA FOODS Phone: (208)345-5310
PO BOX 232
BUHL ID USA 83316

2. Date of Priority: 04/01/1944

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
09S	15E	31	NW SW	TWIN FALLS	

5. Description of diverting works:

WELL WITH 25 H.P. SUBMERSIBLE PUMP TO PIPELINES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
INDUSTRIAL	5/15	10/30	0.44	

7. Total Quantity Appropriated is:
0.44 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
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09S

15E 31

NW

SW

INDUSTRIAL

11. Place of use in counties: TWIN FALLS

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Beneficial Use



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

3-May-05

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

SENECA FOODS
PO BOX 232
BUHL ID 83316

Re: SRBA Claim #47-2330, #47-11236

Dear Claimant,

Pursuant to the change in ownership request that has been submitted to the Department, we have changed the records of current ownership to you. Please find the enclosed copies of the computer records of the claim noting the change in claimant. Review these records and if there is an error, or you have any questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carrie Hahn', is written over a horizontal line.

Carrie Hahn
Office Specialist

Enc.

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP**

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

RECEIVED
APR 26 2005
Department of Water Resources
Southern Region

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
47-11236	47-11236	☐			☐
47-02330	47-02330	☐			☐
		☐			☐
		☐			☐
		☐			☐

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Green Giant Company
430 7th Avenue S., Buhl, Idaho 83316
4. New Owner/Claimant(s) Seneca Food Corporation
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
New Mailing Address Post Office Box 232
City, State and ZIP Code Buhl, Idaho 83316
New Telephone Number (208) 543-4322
5. Date you acquired the property February 10, 1995

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) _____
(include title if applicable) *Philip S. Power*
CFO

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
 Received by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____

754839

WARRANTY DEED

FOR VALUE RECEIVED The Pillsbury Company, a Delaware corporation, successor by merger to Green Giant Company, a Delaware corporation, formerly known as Pillsbury Development Company, successor by merger to Green Giant Company, a Delaware corporation, formerly known as GN Co., successor by merger to Green Giant Company, a Minnesota corporation, the grantor, do es hereby grant, bargain, sell and convey unto

SENECA FOODS CORPORATION a corporation under the laws of New York

whose current address is 1162 Pittsford-Victor Road, Pittsford, N.Y. 14534

the grantee, the following described premises, in Twin Falls County Idaho, to wit:

See Exhibit A attached hereto and made a part hereof.

Together with the benefits and subject to the burdens specified in the instruments described on Exhibit B attached hereto and made a part hereof.

*formerly known as Minnesota Valley Canning Company

RECEIVED
APR 26 2005
Department of Water Resources
Southern Region

1995 FEB 23
1995 FEB 23 10 51
SECURITY Title
1995002758

When recorded, return to:
Jeffrey E. Rolig, Esq.
First Security Bank Building
102 Main Avenue South
Suite 6
P.O. Box 2749
Twin Falls, Idaho 83303-2749

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee its successors heirs and assigns forever. And the said Grantor do es hereby covenant to and with the said Grantee that it is the owner in fee simple of said premises; that they are free from all incumbrances except for any recited in said attached Exhibit B.

and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: February 10, 1995

THE PILLSBURY COMPANY

By: Thomas J. Ryan Vice President
And: Philip P. Segue Assistant Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

On this 10 day of February, 1995

before me, the undersigned, a Notary Public in and for the State of Minnesota

2005 duly authorized and sworn, personally appeared

Thomas J. Ryan

and Philip P. Segue

known to be the Vice President and Assistant Secretary, respectively, of The Pillsbury Company

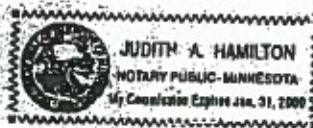
the corporate seal of the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the year and purpose therein mentioned, and on this day that they are authorized to execute the said instrument and that the seal of said corporation is the corporate seal of said corporation.

Witness my hand and official seal hereon affixed this day and year first above written.

Judith A. Hamilton

Notary Public in and for the State of Minnesota

holding office in the County of Hennepin



Twin Falls County, Idaho

EXHIBIT A

2.10.95

PARCEL I:

A parcel of land in the South One-Half of Section 31, Township 9 South, Range 15, East of the Boise Meridian, Twin Falls County, Idaho, described as follows:

Beginning at a point that is North 0 degrees 37 minutes West, 712.60 feet from the Southwest corner of Section 31, Township 9 South, Range 15 East of the Boise Meridian; thence South 69 degrees 37 minutes East, 389.73 feet; thence South 87 degrees 13 1/2 minutes East, 102.65 feet; thence South 1 degree 01 1/4 minutes West, 44.58 feet; thence South 86 degrees 04 minutes East, 143.33 feet; thence South 0 degrees 35 minutes West, 132.45 feet; thence South 44 degrees 59 minutes East, 227.01 feet; thence South 89 degrees 57 minutes East, 1750.32 feet; thence South 0 degrees 32 minutes East, 225.00 feet to the South Quarter corner of said Section 31; thence South 89 degrees 57 minutes East, 44.57 feet; thence North 0 degrees 32 minutes West, 565.00 feet; thence South 89 degrees 57 minutes East, 195.00 feet; thence South 52 degrees 56 minutes East, 31.56 feet; thence North 0 degrees 32 minutes West, 549.75 feet to the U.P.R.R. Right of Way; thence North 83 degrees 52 minutes West, along the U.P.R.R. Right of Way, 1916.68 feet; thence 252.97 feet along the U.P.R.R. Right of Way on a curve to the left that has a radius of 6,825.50 feet, a central angle of 2 degrees 07 minutes 24 seconds and a chord of 252.96 feet bearing North 84 degrees 55 3/4 minutes West, to the Northeast corner of the Pet Milk Tract; thence South 0 degrees 39 1/2 minutes East, 300.00 feet to the Southeast corner of the Pet Milk Tract; thence South 89 degrees 44 1/2 minutes West, 625.00 feet to the West boundary of said Section 31; thence South 0 degrees 37 minutes East, along the section line, 304.90 feet to the Point of Beginning.

EXCEPT a tract of land located in the Southwest Quarter of the Southwest Quarter of Section 31, Township 9 South, Range 15 East of the Boise Meridian in Twin Falls County, Idaho more particularly described as follows:

Beginning at the southwest corner of said SW 1/4 SW 1/4; Thence North 0 degrees 37 minutes 00 seconds West a distance of 712.60 feet along the westerly boundary of said SW 1/4 SW 1/4 to the True Point

Twin Falls County, Idaho

of Beginning; Thence North 0 degrees 37 minutes 00 seconds West a distance of 304.01 feet along the Westerly boundary of said SW 1/4 SW 1/4; thence North 89 degrees 37 minutes 51 seconds East a distance of 625.00 feet; thence North 0 degrees 37 minutes 12 seconds West a distance of 300.0 feet to the Southerly boundary of the Union Pacific Railroad Right of Way; thence Easterly along the Southerly boundary of said Right of Way 252.97 feet on the arc of a curve to the right with a radius of 6825.55 feet, a central angle of 2 degrees 07 minutes 25 seconds and a chord which bears South 84 degrees 52 minutes 39 seconds East a distance of 252.96 feet; thence South 83 degrees 52 minutes 00 seconds East a distance of 132.23 feet along the Southerly boundary of said Right of Way; thence South 0 degrees 37 minutes 12 seconds East a distance of 1059.69 feet; thence North 89 degrees 57 minutes 00 seconds West a distance of 244.18 feet; thence North 44 degrees 59 minutes 00 seconds West a distance of 227.01 feet; thence North 0 degrees 35 minutes 00 seconds East a distance of 132.45 feet; thence North 86 degrees 04 minutes 00 seconds West a distance of 143.33 feet; thence North 1 degree 01 minutes 15 seconds East a distance of 44.58 feet; thence North 87 degrees 13 minutes 30 seconds West a distance of 102.65 feet; thence North 69 degrees 37 minutes 00 seconds West a distance of 369.73 feet to the True Point of Beginning.

Subject to the rights of a public road which affect the westerly 25.00 feet thereof.

PARCEL II:

A tract of land in the NW 1/4 SW 1/4 of Section 31, Township 9 South, Range 15 East of the Boise Meridian, Twin Falls County, Idaho, described as follows:

BEGINNING at a point on the East-West center line of Section 31, 50.4 feet East from the West quarter corner of said Section; THENCE East 344 feet on section center line; THENCE South 524 feet to Twin Falls Canal Company's Lateral, Right Bank; THENCE along said lateral as follows: North 59 degrees 06 minutes West, 181 feet; North 49 degrees 55 minutes West, 125 feet; North 33 degrees 55 minutes West, 72 feet; North 22 degrees 18 minutes West, 148 feet; North 0 degrees 15 minutes East, 154 feet to the Point of Beginning.

Twin Falls County, Idaho

PARCEL III:

A tract of land in the South One-Half of Section 31, Township 9 South, Range 15 East of the Boise Meridian, Twin Falls County, Idaho, described as follows:

BEGINNING at the West Quarter corner of Section 31, Township 9 South, Range 15 East of the Boise Meridian, said point being on the North boundary of Lot 3 in said Section 31; THENCE South 89 degrees 21 minutes East, 623 feet; THENCE South 0 degrees 39 minutes West, 618.45 feet; THENCE North 84 degrees 10 minutes West, 594.02 feet; THENCE West 25 feet to a point on the West boundary of Section 31, Township 9 South, Range 15 East; THENCE North along the West boundary of Section 31, Township 9 South, Range 15 East, 565.10 feet to the Point of Beginning.

EXCEPTING therefrom a tract of land in the NW 1/4 SW 1/4 of Section 31, Township 9 South, Range 15 East of the Boise Meridian, Twin Falls County, Idaho, described as follows:

BEGINNING at a point on the East-West center line of Section 31, 50.4 feet East from the West quarter corner of said Section; THENCE East 344 feet on section center line; THENCE South 524 feet to Twin Falls Canal Company's Lateral, Right Bank; Thence along said lateral as follows: North 59 degrees 06 minutes West, 181 feet; North 49 degrees 55 minutes West, 125 feet; North 33 degrees 55 minutes West, 72 feet; North 22 degrees 18 minutes West, 148 feet; North 0 degrees 15 minutes East, 154 feet to the Point of Beginning.

PARCEL IV:

A tract of land in the South One-Half of Section 31, Township 9 South, Range 15 East of the Boise Meridian, Twin Falls County, Idaho, described as follows:

BEGINNING at a point that is South 89 degrees 21 minutes East, 623.00 feet from the West Quarter corner of Section 31, Township 9 South, Range 15 East of the Boise Meridian, said point being on the North boundary of Lot 3 in said Section 31; THENCE continuing South 89 degrees 21 minutes East, 2139.88 feet; THENCE South 0 degrees 14 minutes East, 1452.62 feet; THENCE North 83 degrees 18 minutes West,

Twin Falls County, Idaho

along the North boundary of the U.P.R.R. Right-of-Way, 911.00 feet; THENCE North 17 degrees 02 minutes West, 676.08 feet; THENCE North 84 degrees 10 minutes West 1056.68 Feet; THENCE North 0 degrees 39 minutes East, 618.45 feet to the Point of Beginning.

Subject to an irrigation ditch maintenance easement, the centerline of said easement being described as follows:

BEGINNING at a point that is South 0 degrees 39 minutes West, 30.00 feet from the Northwest corner of said tract; THENCE extending South 89 degrees 21 minutes East, parallel to the North boundary of said tract a distance of 551.20 feet The width of said easement being 10 feet.

EXCEPT a parcel of land located in a portion of Lot 3 and the NE 1/4 SW 1/4 Section 31, Township 9 South, Range 15 East of the Boise Meridian, Twin Falls County, Idaho and being more specifically described as follows:

Commencing at the West Quarter corner of Section 31, Township 9 South, Range 15 East of the Boise Meridian; THENCE South 89 degrees 55 minutes 21 seconds East 933.90 feet along the Northerly boundary of Lot 3 of said Section 31 to the Real Point of Beginning; THENCE South 89 degrees 55 minutes 21 seconds East 322.62 feet; THENCE South 0 degrees 26 minutes 04 seconds West 340.26 feet; THENCE North 89 degrees 55 minutes 21 seconds West, 317.55 feet; THENCE North 0 degrees 25 minutes 11 seconds West 340.26 feet to the Real Point of Beginning.

The above described parcel of land is subject to a twenty-five foot wide road right-of-way along the Northerly boundary.

PARCEL V:

A portion of the Southwest Quarter of Section 31, Township 9 South, Range 15 East of the Boise Meridian, described as beginning at a point 25 feet East and 1436.5 feet North of the Section corner at the Southwest corner of Section 31, Township 9 South, Range 15 East of the Boise Meridian, which point is the intersection of the North line of the OSL Railroad Right-of-Way with the East line of the County Road along the West side of said Section 31, Township 9 South, Range 15 East of the Boise Meridian; thence North along the East line of said road 650 feet;

Twin Falls County, Idaho

thence South 84 degrees 10 minutes East 1650.70 feet to a point; thence South 17 degrees 2 minutes East 676.08 feet, more or less, to a point on the North Right-of-way line of the Oregon Short Line Railroad; thence in a Westerly direction along said Right-of-way line a distance of 1779 feet, more or less, to the Point of Beginning.

EXCEPT a parcel of land located in Government Lot 3, Section 31, Township 9 South, Range 15 East of the Boise Meridian, Twin Falls County, Idaho, more particularly described as follows:

BEGINNING at the Northwest corner of said Government Lot 3; THENCE South 0 degrees 37 minutes 00 seconds East a distance of 609.65 feet along the Westerly boundary of said Government Lot 3 to the True Point of Beginning; THENCE South 89 degrees 20 minutes 54 seconds East a distance of 509.73 feet; THENCE South 0 degrees 39 minutes 06 seconds West a distance of 264.50 feet; THENCE North 89 degrees 20 minutes 54 seconds West a distance of 503.87 feet to a point on the Westerly boundary of said Government Lot 3; THENCE North 0 degrees 37 minutes 00 seconds West a distance of 264.57 feet along the Westerly boundary of said Government Lot 3 to the True Point of Beginning.

SUBJECT TO: The rights of a public road which affects the Westerly 25.00 feet thereof.

PARCEL VI:

That part of that certain parcel of land which lies North of the Oregon Shortline Railroad Co.'s Right of Way; a part of the West 1/2 Southeast 1/4 of Section 31, Township 9 South, Range 15 East of the Boise Meridian, Twin Falls County, Idaho, more particularly described as follows:

COMMENCING at a point in the North line of the Southeast Quarter of Section 31, Township 9 South, Range 15 East of the Boise Meridian, 530.8 feet East of the Northwest corner of the Southeast Quarter of said Section 31; THENCE West on the North line of said Southeast Quarter 265.4 feet; THENCE South on a line parallel to the West line of said Southeast Quarter of said Section 31 to a point on the South line of said Section 31; THENCE East on the South line of said Section 31, 264.57 feet; THENCE North on a straight line to Place of Beginning;

Twin Falls County, Idaho

ALSO: That part of the West 1/2 Southeast 1/4 lying North of the Oregon Shortline Railroad Co.'s Right of Way in Section 31, Township 9 South, Range 15 East of the Boise Meridian, Twin Falls County, Idaho, more particularly described as follows:

COMMENCING at a point on the North line of the Southeast Quarter of Section 31, Township 9 South, Range 15 East of the Boise Meridian, which said point is 530.8 feet East of the Northwest corner of the Southeast Quarter of said Section 31; thence South 1481 feet; thence East 265 feet, more or less; thence North 1514.5 feet; thence West 265 feet, to the Place of Beginning.

ALSO: That part of the West 1/2 Southeast 1/4 of Section 31, Township 9 South, Range 15 East of the Boise Meridian, lying North of the railroad, in Twin Falls County, Idaho, more particularly described as follows:

BEGINNING at a point on the North line of the Southeast Quarter of Section 31, Township 9 South, Range 15 East of the Boise Meridian, which is South 89 degrees 55 minutes East 1061.6 feet from the Northwest corner of the Southeast Quarter of said Section and running thence South 0 degrees 36 minutes East 277.37 feet to a point which is the True Point of Beginning; THENCE South 0 degrees 36 minutes East 1164.83 feet, more or less, to the North line of the Oregon Shortline Railroad Co.'s Right of Way; THENCE along the North line of said Right of Way in a Northwesterly direction a distance of 269.0 feet to a point; THENCE North 0 degrees 37 minutes West 1135.13 feet to a point which is 277.37 feet South of the North line of the Southeast Quarter of said Section; THENCE East 265.3 feet to the Point of Beginning.

EXCEPT a parcel of land located in the Northwest 1/4 Southeast 1/4 of Section 31, Township 9 South, Range 15 East of the Boise Meridian, Twin Falls County, Idaho, described as follows:

BEGINNING at the Northwest corner of the Southeast Quarter of Section 31, Township 9 South, Range 15 East of the Boise Meridian; thence South 89 degrees 55 minutes East along the North line of the Southeast Quarter of said Section 31 for a distance of 265.4 feet to the true point of beginning; THENCE South on a line parallel to the West line of said Southeast Quarter of said Section, for a distance of 226.8 feet

Twin Falls County, Idaho

to a point; THENCE South 89 degrees 55 minutes East for a distance of 530.8 feet to a point; THENCE North 0 degrees 37 minutes West for a distance of 226.8 feet to a point on the North line of the Southeast Quarter of Section 31; THENCE North 89 degrees 55 minutes West along the North line of said Southeast Quarter, of said Section 31, for a distance of 530.8 feet to the True Point of Beginning.

Twin Falls County, Idaho

EXHIBIT B

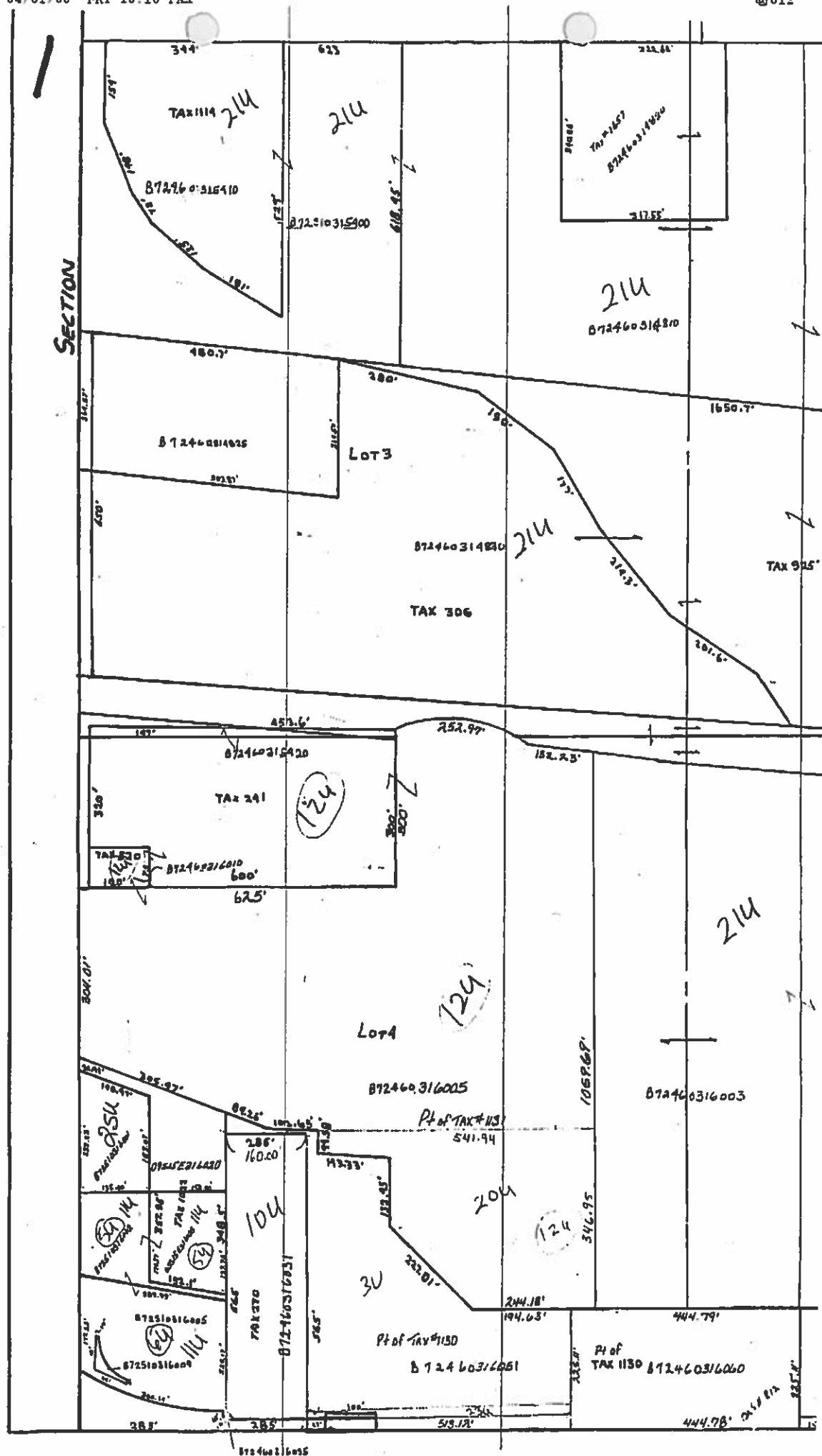
2.10.95

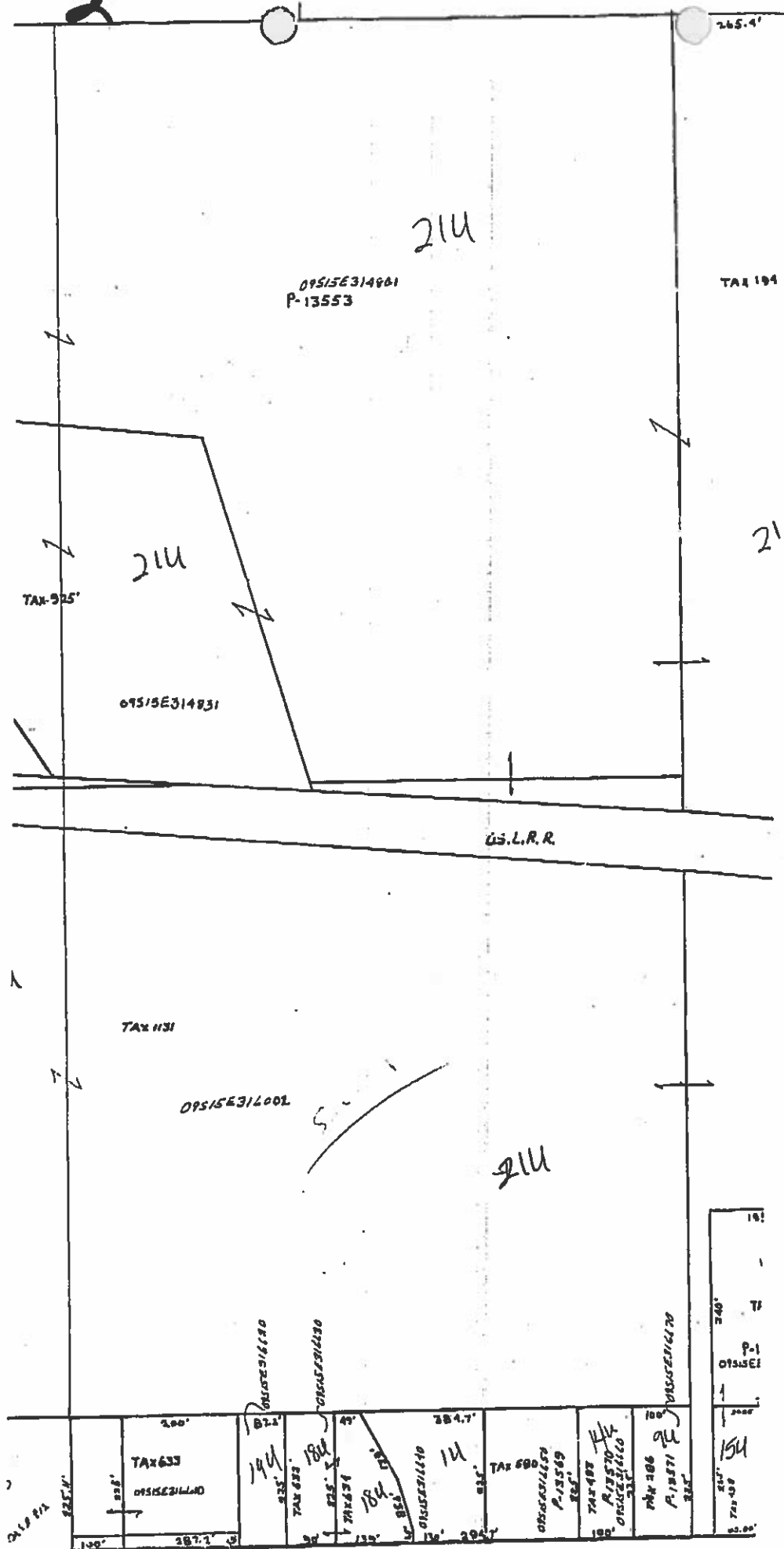
1. Liens for current taxes not yet due and payable.
2. Liens, if any, previously disclosed in writing to Grantee pursuant to Disclosure Schedule attached to Asset Purchase Agreement dated December 8, 1994, as amended.
3. Liens, if any, imposed by law and incurred in the ordinary course of business, for obligations not yet due to carriers, warehousemen, laborers and materialmen.
4. Easements and other encumbrances, if any, which do not materially adversely affect the manner in which the improvements on the property are operated on the date hereof.
5. Encroachments, overlaps, boundary line disputes, if any, and any other matters which would be disclosed by an accurate survey or inspection of the premises including, but not limited to, insufficient or impaired access or matters contradictory to any survey plat shown by the public records.
6. Rights of way, if any, for ditches, tunnels, telephone and distribution lines constructed by authority of the United States, as granted to the United States under the provisions of Section 58-604 Idaho Code 1947.
7. Water rights, claims or title to water, if any.
8. General taxes for the year 1994, as extended on the regular tax roll.
9. Liens and assessments, if any, of the American Falls Irrigation District, and the rights and powers of said district as by law provided.
10. Unrecorded right of way for ditches, canals and coulee of the Twin Falls Canal Company.
11. Right of Way granted April 15, 1927, made between Crawford Moore and Mildred Moore, husband and wife, and Clarence S. Peck and Evelyn M. Peck, husband and wife, to The Sego Milk Products

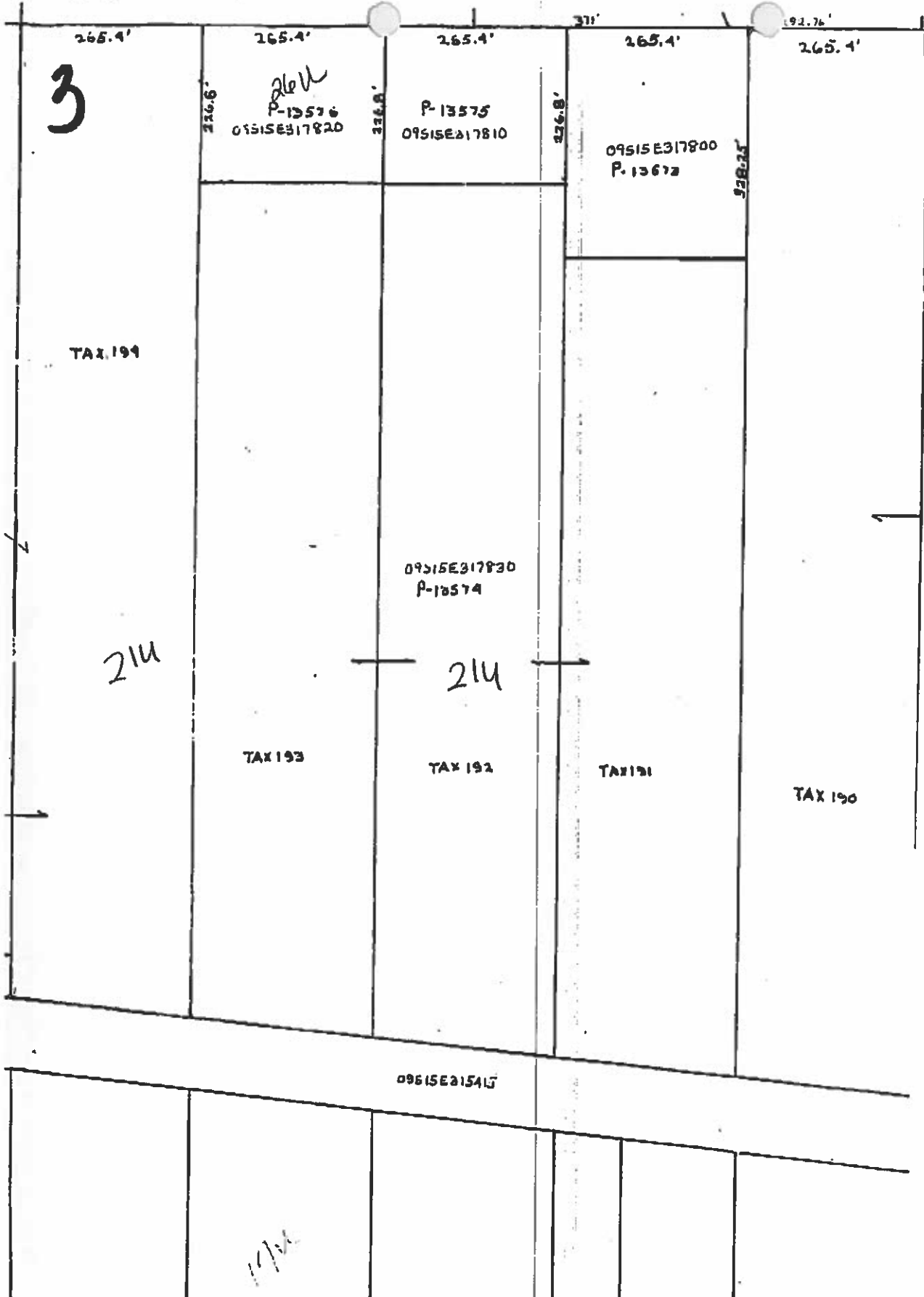
Twin Falls County, Idaho

Company, recorded April 30, 1927, as Instrument No. 197199, Official Records of Twin Falls County, Idaho.

12. Right of Way granted April 19, 1927, made between Crawford Moore, Trustee, and Western Loan and Investment Company, parties of the first part, and The Sego Milk Products Company, party of the second part, and recorded as Instrument No. 197200, Official Records of Twin Falls County, Idaho.
13. Easement as granted by F. W. Harder and Ada Harder, husband and wife, to Idaho Power Company, a corporation, by instrument recorded September 24, 1934, in Book 90 of Deeds, page 217, of Official Records of Twin Falls County, Idaho.
14. Easement as granted by Green Giant Canning Company, to Idaho Power Company, a corporation, by instrument recorded May 10, 1958, as Instrument No. 472667, of Official Records of Twin Falls County, Idaho.
15. Easement and Right-of-Way dated April 15, 1963, between Paul Dana and Lillian Dana, husband and wife, parties of the first part, and Green Giant Land and Development Company, party of the second part, as modified pursuant to Amendment to Easement and Right-of-Way dated June 19, 1968, between Paul Dana and Lillian Dana, husband and wife, and Green Giant Land and Development Company and Green Giant Company and recorded as Instrument No. 589987, Official Records of Twin Falls County, Idaho.
16. Easement and Right-of-Way dated April 15, 1963, between Paul Dana and Lillian Dana, husband and wife, parties of the first part, and Green Giant Land and Development Company, party of the second part, as modified pursuant to Amendment to Easement and Right-of-Way dated April 19, 1968, between Paul Dana and Lillian Dana, husband and wife, and Green Giant Land and Development Company and Green Giant Company and recorded as Instrument No. 589988, Official Records of Twin Falls County, Idaho.
17. Easement reserved in Warranty Deed by and between The Pillsbury Company, a Delaware corporation, and Pet Incorporated, a Delaware corporation, recorded February 9, 1989, as Instrument No. 951230, Official Records of Twin Falls County, Idaho.







265.4'

700

TAX 190

095152317205

\$14.00

5-13583

095457 8/ 8490

269.51'

PN 64-41⁹

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Eugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
Robert E. Bakes
John S. Simko
John C. Ward
D. James Manning
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell

Robert B. Burns
James C. Dale
Michael E. Thomas
Patricia M. Olsson
James C. deGlee
Bradley J. Williams
Lee Radford
Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
David P. Gardner
John O. Fitzgerald, II
Julian E. Gabiola
Angela Schaer Kaufmann
Michael W. McGreaham

Kimberly D. Evans Ross
Jon A. Stenquist
Eric M. Barzee
Valerie N. Charles
Bradley J. Dixon
Jason G. Murray
Mark C. Peterson
Andrew J. Waldera
Tyler J. Anderson
Russell G. Metcalf

Morgan W. Richards, *of counsel*

Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

Boise
Idaho Falls
Pocatello
Twin Falls

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

April 22, 2005

RECEIVED
APR 26 2005
Department of Water Resources
Southern Region

Idaho Department of Water Resources-Southern
Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

Re: Water Rights 47-02330 and 47-11236
Change of Ownership to Seneca Foods Corporation
MTBR&F File No. 19640.2

Dear Sir or Madam:

I am enclosing one original and one copy of the Notice of Change in Water Right Ownership for water right numbers 47-02330 and 47-11236, which I am submitting on behalf of Seneca Foods Corporation. It appears because these water rights are currently pending in the Snake River Basin Adjudication, no filing fee is necessary. Please file the original, receive stamp the copy, and return the copy to me in the enclosed self-addressed, stamped envelope.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,


Scott L. Campbell

SLC/tmh

Enclosure

cc: Russell Grubb (w/o encl.)

Jones, Doug

From: Jones, Doug
Sent: Wednesday, November 16, 2011 10:29 AM
To: 'Andy Waldera'
Cc: Spencer, Nick; Ridgeway, Renea
Subject: RE: RE:
Attachments: seneca_field_exam.pdf; 9s15e-plat.pdf

My responses are in red below.

Thanks,

Doug

From: Andy Waldera [mailto:AJW@moffatt.com]
Sent: Tuesday, November 15, 2011 5:27 PM
To: Jones, Doug
Cc: Spencer, Nick; Ridgeway, Renea
Subject: RE: RE:

Doug and Nick:

I have a few questions regarding the latest proposed revisions to the Seneca Buhl water rights (right nos. 47-11236 and -2330).

1. On both...I note that the point of diversion has been revised to the QQQ level (as opposed to QQ), and that Govt Lot 3 has been added. From review of the various backfile materials available online, I am confident and comfortable in agreeing that the POD is located in the NWSW QQ of Section 31, T09S, R15E. However, I am less confident (and frankly do not know) whether the POD is actually located in the SE of the NWSW. Based upon various backfile diagrams (which I know are approximate only), I have seen some locate the POD in the SE of the NWSW, and I have seen others suggesting that the POD is located in the NE of the NWSW.

We know that we are dealing with the same well for both water rights. The underlying license for water right 2330 simply lists the POD to the QQ level (i.e., the NWSW). Is there any practical need to describe the POD to the QQQ level and potentially get it wrong? On the other hand, if IDWR possesses GPS coordinates or other data demonstrating that, without question, the well is located in the SENWSW, please let me know what that is so that I can satisfy myself that the proposed QQQ level description is correct. In short, IDWR's QQQ POD description may well be 100% correct, I just do not have the data to confirm that from my end and the potentially conflicting backfile materials give me pause for concern.

For both above paragraphs see attached field exam map from SRBA review. The well is nowhere near NENWSW. The 10-acre description narrows the focus of finding a well from the legal description only if no map is available.

Regarding the insertion of Govt Lot 3 into the POD location description, this too is something that I would like to be able to independently verify based upon whatever data IDWR is relying upon. Again, the underlying license for right no. 2330 does not reference Govt Lot 3, nor do any of the backfile materials (applications, permits, or engineer's reports) I quickly skimmed. If listing Govt Lot 3 is necessary from IDWR's perspective, please provide me with the data supporting the overlay of Govt Lot 3.

See attached Gov't Lot plat. The true description IS Gov't Lot 3, but the (Q)QQ is 99.9%-included in our data for ease of searching by POD or POU by our usual data consumers.

2. On water right no. 47-11236...the originally recommended ADV has been adjusted downward from 264.0 AFY to 160.6 AFY. I understand mechanically how the calculation works, and I acknowledge that the 0.44 cfs diversion rate on this water right when considered alone could not yield 264.0 AFY over the course of the processing season. If IDWR's aim is

to impose an ADV on this right that represents its maximum yield (based upon the 0.44 cfs diversion rate) over the course of the processing season (i.e., assign an ADV that does not actually limit the water right, rather the ADV merely quantifies the maximum volume that the right could ever provide), then I am fine with that. However, I would appreciate the opportunity to review IDWR's calculation of the new 160.6 AFY ADV.

I did indeed make an error counting days. There 169 days between 5/15 and 10/30; therefore the volume should be $0.44 \text{ (cfs)} \times 1.9835 \text{ (AcreFt per day per cfs)} \times 169 \text{ (days)} = 147.5 \text{ AF}$

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Because 5/15 to 10/30 is what was claimed.

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How about: **"Industrial process wastewater arising from the prior industrial use of this water right may be land applied for secondary irrigation purposes as a water quality discharge mitigation measure."**

Wastewater from industrial use, as authorized by this water right, may be applied to lands with a full existing irrigation water right to address discharge water quality concerns.

Thank you all for your attention to this matter.

--Andy

From: Jones, Doug [mailto:Doug.Jones@idwr.idaho.gov]
Sent: Monday, October 24, 2011 2:25 PM
To: Andy Waldera
Cc: Spencer, Nick; Ridgeway, Renea
Subject: RE:

Andy,

Perhaps an explanation for the volume adjustment would be helpful to you and your client. This is an excerpt from a client/attorney communication...

"I adjusted the season longer to the claimed season, but adjusted the volume of the senior right 47-11236 downward to 160.6 AFA (still recommended the combined 264 afa). The recommended flow rate 0.44 cfs could only produce 160.6 if ran 24/7 for the processing season...."

Our policy has been to be as clear as possible for each right. It is misleading to the water user to have the 264 afa on a right when the rate could not provide that volume except in combination with another right (as in this case). I hope this explanation helps in understanding the change.

Doug

From: Ridgeway, Renea
Sent: Monday, October 24, 2011 2:14 PM
To: Andy Waldera

Cc: Spencer, Nick; Jones, Doug
Subject: RE:

Hi Andy,

As promised, I'm following up on the SF5s that were sent over for your signature last Monday. Just want to make sure we're on task and that you and your client have no problems with them. Thanks!

Renea Ridgeway
Paralegal
Office of the Attorney General
Natural Resources Division
Idaho Department of Water Resources
(208) 287-4814 office
(208) 287-6700 fax

From: Ridgeway, Renea
Sent: Monday, October 17, 2011 2:48 PM
To: 'Andy Waldera'
Cc: Spencer, Nick; Jones, Doug
Subject:

Hi Andy,

Doug revised the attached two water rights to incorporate the refined language for the waste water application and he lengthened the season but adjusted the volume of the senior right downward. He also added the government lot number for the NWSW Sec.

Please review the revisions and let me know if they are acceptable and I will shoot over the SF5 cover sheets. If not, then I suggest speaking to Doug directly. I will touch base with you early next week if I have not heard from you any sooner than that.

Have a great day. Thanks!

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Jones, Doug

From: Jones, Doug
Sent: Wednesday, November 16, 2011 10:29 AM
To: 'Andy Waldera'
Cc: Spencer, Nick; Ridgeway, Renea
Subject: RE: RE:
Attachments: seneca_field_exam.pdf; 9s15e-plat.pdf

My responses are in red below.

Thanks,

Doug

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N

06 LT13	06 SE3W	06 LT18	06 LT20	05 LT22	05 LT10	05 LT20	05 LT18	04 LT11	04 LT12	04 LT07	04 LT08	03 SW3W	03 SE3W	03 SW3E	03 SE3E	02 SW3W	02 SE3W
07 LT01	07 NENW	07 NNWE	07 NENE	08 NNW	08 NENW	08 LT05	08 LT04	08 LT08	08 LT08	08 LT07	08 LT08	10 LT04	10 LT02	10 LT02	10 LT01	11 LT03	11 LT01
07 LT02	07 SEHW	07 SWNE	07 SENE	08 SWW	08 SEHW	08 SWNE	08 LT01	08 LT11	08 LT12	08 LT13	08 LT14	10 LT12	10 LT12	10 LT10	10 LT08	11 LT11	11 LT11
07 LT03	07 NESW	07 NWSE	07 NESE	08 NNW	08 NESW	08 NWSE	08 NESE	08 NNW	08 LT03	08 LT04	08 LT05	10 LT05	10 LT06	10 LT07	10 LT08	11 NNW	11 NESE
07 LT04	07 SE3W	07 SW3E	07 SE3E	08 SW3W	08 SE3W	08 SW3E	08 SE3E	08 SW3W	08 SE3W	08 SW3E	08 SE3E	10 SW3W	10 SE3W	10 SW3E	10 SE3E	11 SW3W	11 SE3E
18 LT01	18 NENW	18 NNWE	18 NENE	17 NNW	17 NENW	17 NNWE	17 NENE	18 NNW	18 NENW	18 NNWE	18 NENE	15 NNW	15 NENW	15 NNWE	15 NENE	14 NNW	14 NENW
18 LT03	18 SEHW	18 SWNE	18 SENE	17 SWW	17 SEHW	17 SWNE	17 SENE	18 SWW	18 SEHW	18 SWNE	18 SENE	15 SWW	15 SEHW	15 SWNE	15 SENE	14 SWW	14 SEHW
18 LT04	18 SE3W	18 SW3E	18 SE3E	17 SW3W	17 SE3W	17 SW3E	17 SE3E	18 SW3W	18 SE3W	18 SW3E	18 SE3E	15 SW3W	15 SE3W	15 SW3E	15 SE3E	14 SW3W	14 SE3E
18 LT01	18 NENW	18 NNWE	18 NENE	20 NNW	20 NENW	20 NNWE	20 NENE	21 NNW	21 NENW	21 NNWE	21 NENE	22 NNW	22 NENW	22 NNWE	22 NENE	23 NNW	23 NENW
18 LT02	18 SEHW	18 SWNE	18 SENE	20 SWW	20 SEHW	20 SWNE	20 SENE	21 SWW	21 SEHW	21 SWNE	21 SENE	22 SWW	22 SEHW	22 SWNE	22 SENE	23 SWW	23 SEHW
18 LT03	18 NESW	18 NWSE	18 NESE	20 NNW	20 NESW	20 NWSE	20 NESE	21 NNW	21 NESW	21 NWSE	21 NESE	22 NNW	22 NESW	22 NWSE	22 NESE	23 NNW	23 NESW
18 LT04	18 SE3W	18 SW3E	18 SE3E	20 SW3W	20 SE3W	20 SW3E	20 SE3E	21 SW3W	21 SE3W	21 SW3E	21 SE3E	22 SW3W	22 SE3W	22 SW3E	22 SE3E	23 SW3W	23 SE3E
20 LT01	20 NENW	20 NNWE	20 NENE	28 NNW	28 NENW	28 NNWE	28 NENE	28 NNW	28 NENW	28 NNWE	28 NENE	27 NNW	27 NENW	27 NNWE	27 NENE	28 NNW	28 NENW
20 LT02								28 SWW	28 SEHW	28 SWNE	28 SENE	27 SWW	27 SEHW	27 SWNE	27 SENE	28 SWW	28 SEHW
20 LT03								28 NNW	28 NESW	28 NWSE	28 NESE	27 NNW	27 NESW	27 NWSE	27 NESE	28 NNW	28 NESW
20 LT04								28 SWW	28 SE3W	28 SW3E	28 SE3E	27 SWW	27 SE3W	27 SW3E	27 SE3E	28 SWW	28 SE3E
21 LT01								33 NNW	33 NENW	33 NNWE	33 NENE	34 NNW	34 NENW	34 NNWE	34 NENE	35 NNW	35 NENW
21 LT02								33 SWW	33 SEHW	33 SWNE	33 SENE	34 SWW	34 SEHW	34 SWNE	34 SENE	35 SWW	35 SEHW
21 LT03								33 NNW	33 NESW	33 NWSE	33 NESE	34 NNW	34 NESW	34 NWSE	34 NESE	35 NNW	35 NESW
								33 SWW	33 SE3W	33 SW3E	33 SE3E	34 SWW	34 SE3W	34 SW3E	34 SE3E	35 SWW	35 SE3E

QQ for Seneca

Government Land Office
Plats

10/12/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 47-11236

NAME AND ADDRESS: SENECA FOODS
PO BOX 232
BUHL ID 83316

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.440 CFS
264.000 AFY

The rights listed below are limited to a total combined annual diversion volume of 264 af. Combined Right Nos.: 47-11236 and 47-2330.

PRIORITY DATE: 04/01/1944

POINT OF DIVERSION:

T09S R15E S31 NWSW Within TWIN FALLS County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

INDUSTRIAL

05/15 10/25

0.440 CFS

PLACE OF USE: INDUSTRIAL Within TWIN FALLS County

T09S R15E S31 NWSW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

5/15 10/30 = 169 day

184?

5/16 136 AFY 10/142
1.9835 x .44 x 156 day
163



Idaho Department of Water Resources

SRBA Recommendation:

47-11236

Legend

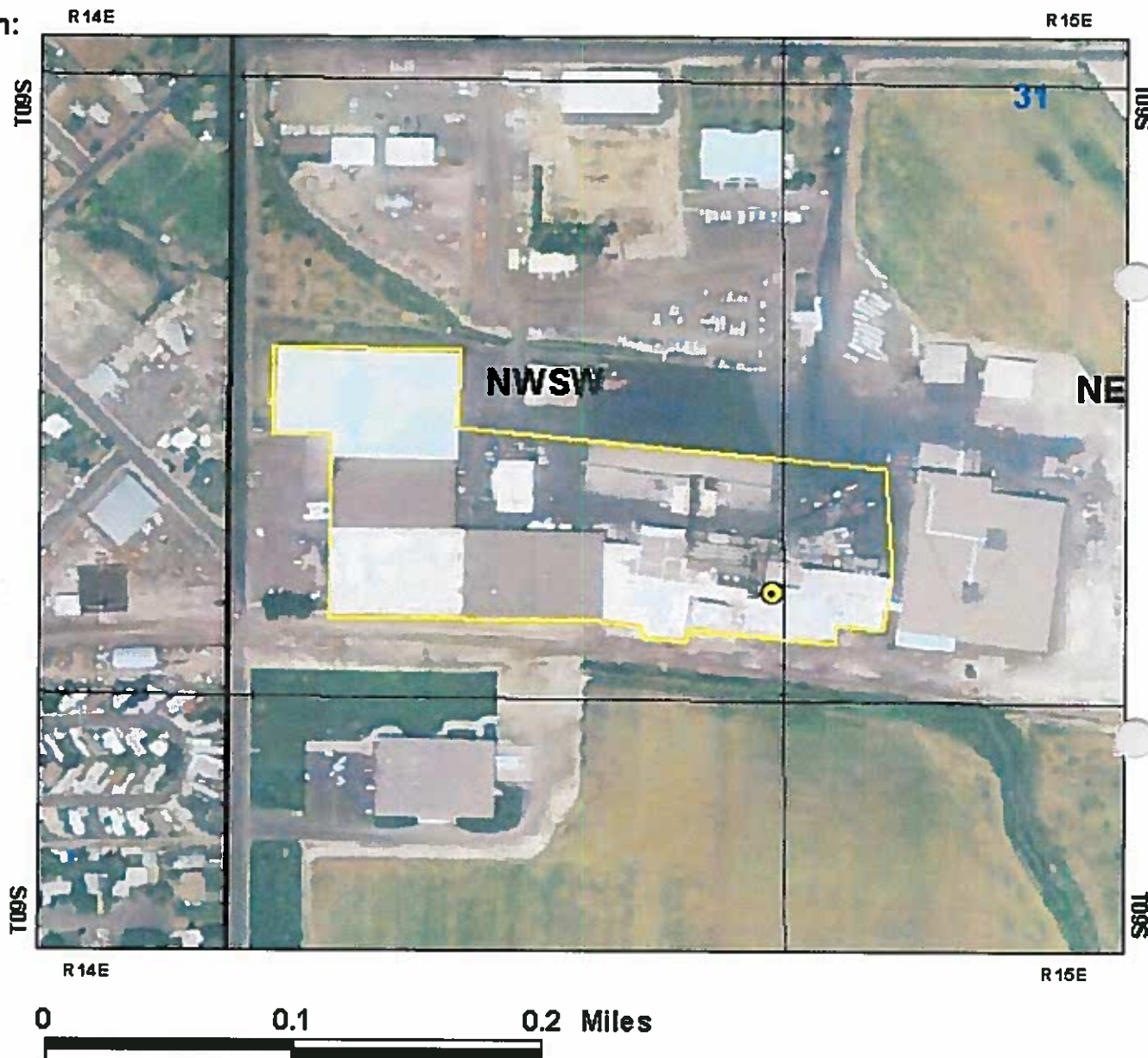
-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Twin Falls County
IDWR Basin 47



Prepared by N. Erickson
On Thursday, October 12, 2006
2004 Aerial Photography



Memo

To: File

From: Nathan Erickson

Date: 10/12/2006

Re: WR 47-11236 and 47-2330, Seneca Foods

The two water rights are owned by Seneca Foods of Buhl, there are two wells on the property. The main production well was drilled in 1960; it was found that the draw down rendered the original well inoperable. Because both wells are in the same QQ, there has been an accomplished transfer of the point of diversion for WR 47-11236 to the point of diversion for WR 47-2330, pursuant to Idaho Code Section 42-1425. Since the accomplished transfer has occurred the original well should be abandoned unless a transfer is filed to add the second well to the water rights.

The information in the adjudication claim file shows that the capacity of the main production well is capable of producing approximately 1,000 gpm (2.22 cfs) allowed by WR 47-11236 and 47-2330.

The season of use was changed to 5/15 - 10/25, to reflect what the Seneca Foods Lawyer reported (See facsimile in file dated October 6, 2006, from Andrew Waldera).

The determination of the annual diversion volume allowed for both water rights was based on the 2005 and 2006 production records for Seneca Foods. In 2005 the production records show that 218 acre feet were pumped from the well. However in 2006 the total volume as of October 2 was 217 acre feet, the 2006 volume was missing the last 23 days in the season of use. To account for the loss, the diversion volume for the 23 days in 2005 were applied to 2006 and the annual sum was calculated, this resulted in the estimated 2006 annual diversion volume of 264 acre feet. Other methods of applying an average to the 23 days were explored but were found to over estimate the expected production volume for the end of the season. It is recommended that the annual diversion volume be 264 acre feet.



US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
208 385 5384 Fax
208 385 5444 Direct

FACSIMILE

From: Andrew Waldera**Date:** October 6, 2006**Re:** Seneca-Buhl Ground Water Use**File No.:** 19-640.02

Number of pages being transmitted including the cover page: 2
Please call fax operator at (208) 345-2000 if all pages are not received.

	Name	Organization	Fax No.	Voice No.
To:	Nathan Erickson Field Technician	Idaho State Department of Water Resources	208-736-3037	

Message:

PLEASE DELIVER IMMEDIATELY

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If you have received this communication in error, please immediately notify us by telephone to arrange for return of the original document to us. Thank you.

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

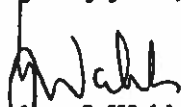
Boise
Idaho Falls
Pocatello
Twin FallsEugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. BurnsMichael E. Thomas
Patricia M. Olsson
Bradley J. Williams
Lee Radford
Michael O. Roe
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Michael W. McGraham
David P. Gardner
Julian E. Gabiola
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Kimberly D. Evans Ross
Paul D. McFarlane
Jon A. Stenquist
Tyler J. HendersonJason G. Murray
Mark C. Peterson
Andrew J. Waldera
Tyler J. Anderson
Dylan B. Lawrence
Russell G. Mercalf
Benjamin C. Ritchie
Rebecca A. RaineyRobert E. Bakes, *of counsel*
Morgan W. Richards, *of counsel**Willis C. Moffatt, 1907-1980*
*Kirk R. Helvie, 1956-2003*October 6, 2006
via Facsimile
208-736-3037US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.comNathan Erickson
Field Technician
Idaho Department of Water Resources
Southern Region Office
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380**Re: Seneca-Buhl Ground Water Use**
MTBR&F File No. 19640.02

Dear Nathan:

As requested at yesterday's meeting between you, me, Scott Campbell, and Allen Merritt, I contacted Doug Thorson at Seneca's Buhl, Idaho plant and inquired as to the season of use of the 1960 well (or, more accurately Seneca's season of use of groundwater). Doug informed me that the plant used ground water during the entire processing season, covering May 15 through October 25, annually. Packing activities performed during the slower winter months are performed with the use of municipal/potable water supplied by the City of Buhl.

If you have any questions, or require any additional information, please let me know.

Very truly yours,


Andrew J. Waldera

AJW/dll

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

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Idaho Falls
Pocatello
Twin Falls

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October 5, 2006
via Hand Delivery

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Allen Merritt
Water Rights Supervisor
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Twin Falls, ID 83301-3380

Nathan Erickson
Field Technician
Idaho Department of Water Resources
Southern Region Office
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

Re: Seneca Plant, Buhl Idaho Ground Water Rights/Claims
MTBR&F File No. 19640.2

Dear Allen and Nathan:

I am writing you to provide you with information regarding Seneca Foods Corporation's ("Seneca") ground water use at its Buhl, Idaho processing facility so that the Department can make its recommendation concerning Seneca's beneficial use claim no. 47-11236. As you will see from the attached documents and Affidavit of Doug Thorson, Seneca completed an accomplished transfer of the point of diversion for water right claim no. 47-11236 to the point of diversion for water right license no. 47-2330, pursuant to Idaho Code Section 42-1425. The 1960 well (right no. 47-2330) is not only capable of diverting up to 1,000 gallons per minute ("gpm"), but the Seneca plant has historically diverted, and currently diverts, up to 1,000 gpm of ground water on a regular basis to meet its processing season needs.

Seneca Buhl Water Rights

As the Department is aware, Seneca has two ground water rights associated with its Buhl facility. Beneficial Use Claim No. 47-11236 is a 437 foot deep well drilled in 1944. The well was driven by a 25 HP Peerless pump, and produced approximately 200 gpm (0.44 cfs) of ground water. Water was pumped from the well during the processing season up until the late 1970s or very early 1980s, but has not been pumped since for reasons discussed below. Currently, the well still contains its pump, but its power supply and water hookup into the plant have been disconnected.

Seneca's second ground water right is License No. 47-2330, with a priority date of 1960. The well is 645 feet deep, cased with 18 inch pipe with an eight (8) inch discharge pipe, and pumped by a 150 HP GE pump. The license permits the diversion of 800 gpm (1.78 cfs), but

Allen Merritt
Nathan Erickson
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the well is capable of diverting more than this amount (see below). This well has been the plant's primary source of ground water since its completion in June 1960, and it is the only well still in use at the plant.

The second well was drilled in response to a major plant expansion that took place in 1960 during Green Giant's ownership of the facility. The drilling of the second 1960 well caused problems for the operation of the smaller 1944 well. Both wells are located within the same quarter, quarter section (NW 1/4 of the SW 1/4 of Section 31). Because of the wells' proximity, and their diversion of water from the same subsurface source, the smaller 1944 well historically went dry after a couple of weeks of operation of the larger 1960 well. For a number of years, the plant would run both wells until the 1944 well would go dry. The plant would then increase the production of the 1960 well to cover the absence of water from the 1944 well. This joint operation of the wells occurred until the late 1970s, or the very early 1980s at the latest. From that point forward, the 1944 well was retired, and its point of diversion moved entirely to the 1960 well.

As a result, the 1960 well then became the plant's sole ground water diversion point, producing both the water allocated under water right claim no. 47-11236 (200 gpm), and that allocated under water right license no. 47-2330 (800 gpm). The 1960 well has historically diverted, and currently diverts up to 1,000 gpm when plant production requires it.

In addition to the plant's ground water rights, the plant meets additional water needs through a connection to the City of Buhl municipal supply. Overall, plant water needs are met through an approximately 60/40 percent split between ground and city water (60 percent from ground water and 40 percent from city water). City water is used in the packing/freezing/canning of the product, as well as for other sanitary purposes. Ground water is used to wash the vegetables, cook (via steam), and cool the canned product, and reclaimed ground water is used to transport product through the facility.

1960 Well Diversion/Production Capacity

Records attached to this letter, and to the Affidavit of Doug Thorson, establish that the 1960 well is more than capable of diverting/producing 1,000 gpm. Attached as Exhibit A to the Thorson Affidavit are Seneca water use records for both its ground water and city water sources. The records cover the plant's 2005 processing season, and the 2006 processing season to date. Unfortunately, Seneca did not track or maintain such data prior to 2005. Regardless, and as demonstrated by the ground water usage records in 2005 and 2006, the 1960 well is more than capable of diverting/producing up to 1,000 gpm. For example, the well diverted 1,648,100 gallons of water on September 25, 2005.

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In addition to these flow meter records, pump performance curve records from Andrew Well Drilling Services (the firm that drilled and maintains the 1960 well) show that the well can easily divert 1,000 gpm. Again, this "academic" finding is not surprising given the well's actual production as measured on September 25, 2005, and again on August 2, 2006.

Other well production capability evidence includes that contained in the Affidavit of Doug Thorson. For example, there have been times in the past, including roughly five years ago, when the City of Buhl has had to cut off its delivery of water to the Seneca plant due to problems the city was having with some of its supply wells and corresponding infrastructure. When such a situation last arose, in or about processing season 2001, the Seneca plant was operated exclusively on ground water from the 1960 well. The well was diverting at least 1,000 gpm, and the plant was implementing whatever water conservation measures it could to support its continued operations. Last, regarding the capability of the 1960 well to divert up to 1,000 gpm, the Well Log and Report on file with the Department demonstrates that the well was test pumped at a rate of 1,106 gpm for 12.5 hours in 1965.

Plant Processing Water Needs/Use

In addition to Department concerns over the 1960 well's ability to divert/produce up to 1,000 gpm, Mr. Erickson has expressed concern over whether the plant has historically used up to 1,000 gpm of ground water, thereby confirming the plant's beneficial use of water right claim no. 47-11236. While Seneca did not keep detailed ground water use records until 2005, there is ample evidence that the plant has diverted and beneficially used at least 1,000 gpm of ground water since 1960.

First, the most recent records evidencing Seneca's use of ground water up to 1,000 gpm are the detailed 2005 and 2006 processing season water use records discussed above. During the 2005 processing season, the plant met the 1,000 gpm threshold on at least 14 days. Additionally, the plant exceeded 950 gpm on at least 17 additional days. In 2006, to date, the plant met the 1,000 gpm threshold once so far, on August 2, 2006, and the plant has exceeded 950 gpm on 11 additional days. The 2006 processing season is still relatively young, and there will likely be days upcoming where the plant will use up to 1,000 gpm of ground water, or, at the least exceed the use of 950 gpm from the 1960 well.

In addition to the 2005-06 water use records discussed above, recall that roughly five years ago, the City of Buhl had to cut its water delivery to the plant due to problems with a couple of the City's production wells and piping infrastructure. At that time, the plant operated exclusively on ground water diverted from the 1960 well.

Further, there is historic use evidence that the plant was diverting and using at least 1,000 gpm from the 1960 well for at least five packing seasons from 1960 through 1965. When submitting its Proof of Application of Water to Beneficial Use in 1965, Green Giant Plant Superintendent Oran C. Scholl testified that the well was capable of diverting 2.57 cfs (1,153.5 gpm). He further testified that the well had been diverting, and that the plant had been using, between 1,000 gpm and 1,100 gpm since the 1960 processing season—a total of five processing seasons (the well was completed June 24, 1960 according to the Well Log and Report). Mr. Scholl also testified that the minimum amount of ground water necessary for plant operation was 1,000 gpm. In addition to Mr. Scholl, Mr. Jesse C. Holmes (Buhl City Superintendent) and Mr. Olin L. Smith (Power Company Manager), both testified that the 1960 well was capable of, and in fact had been diverting 2.57 cfs (1,153.5 gpm) for five processing seasons commencing on August 1, 1960.

Lastly, regarding the plant's historic use of at least 1,000 gpm of ground water, Seneca has produced the water supply feasibility report prepared by the geotechnical firm E.G. Crosswaite, dated November 20, 1980. At the time the report was commissioned, the plant was operating upon the 1944 priority 200 gpm beneficial use claim and the 1960 priority 800 gpm license. Yet despite the plant's diversion and use of 1,000 gpm, Seneca's predecessor, Green Giant, still commissioned the report examining the feasibility of securing additional ground water supply. The existence of the report begs the question, "If the plant was not already maxing out its use of 1,000 gpm of ground water, why would Green Giant be investigating the development of even more ground water?" The first page of the report answers this question by stating, "The Green Giant Company needs more water than can be supplied by the existing water system." Admittedly, the report addresses anticipated shortcomings of the 1960 well and pump depth, rather than the outright search for additional water above and beyond 1,000 gpm. The report questions the 1960 well's ability to continue producing the desired 1,000 gpm required by the plant given dropping pumping levels. At a minimum, the report continually establishes the plant's need for at least 1,000 gpm of ground water, and that the safest means for ensuring such a supply, and perhaps securing even more water, would be through the drilling of a new primary well 1,000 to 1,200 feet deep, three-quarters of a mile from the existing wells. If the plant did not require at least 1,000 gpm of ground water, the E.G. Crosswaite report would never have been commissioned.

Conclusion

As you can see, Seneca and/or its predecessors in interest completed an accomplished transfer of the point of diversion for water right claim no. 47-11236 to the point of diversion for water right license no. 47-2330. Additionally, the 1960 well (water right license no. 47-2330) is capable of diverting up to 1,000 gpm. Further, Seneca and its predecessors have historically diverted and beneficially used up to 1,000 gpm of ground water during the processing season on

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Nathan Erickson
October 5, 2006
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numerous occasions. Given these materials, the Department has more than enough evidence to recommend water right claim no. 47-11236 at its full 200 gpm (0.44 cfs) claimed amount.

Very truly yours,



Scott L. Campbell

SLC/dll
Enclosure
cc: Client

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

DEPT. OF WATER RESOURCES
SOUTHERN REGION

SEP 21 2006

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

RECEIVED

RECEIVED

SEP 21 2006

FACSIMILEDEPT. OF WATER RESOURCES
SOUTHERN REGION**From:** Deborah L. Long
Administrative Assistant to Andrew J. Waldera**Date:** September 21, 2006**Re:** Water Right Nos. 47-02330 and 47-11236**File No.:** 19640.2**Number of pages being transmitted including the cover page: 2**
Please call fax operator at (208) 345-2000 if all pages are not received.

	Name	Organization	Fax No.	Voice No.
To:	Nathan Erickson	Idaho Department of Water Resources Southern Region	(208) 736-3037	(208) 736-3033

Message:

Letter dated September 21, 2006, from Andrew Waldera.

PLEASE DELIVER IMMEDIATELY

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If you have received this communication in error, please immediately notify us by telephone to arrange for return of the original document to us. Thank you.

RECEIVED

SEP 21 2006

Boise
Idaho Falls
Pocatello
Twin Falls*Moffatt Thomas*MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD. DEPT. OF WATER RESOURCES
SOUTHERN REGIONEugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenn M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. BurnsMichael E. Thomas
Patricia M. Olsson
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Lee Radford
Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
Michael W. McGraham
David P. Gardner
Julian E. Gabiola
Angela Schaefer Kaufmann
Kimberly D. Evans Ross
Paul D. McFarlane
Jon A. Stenquist
Tyler J. HendersonJason G. Murray
Mark C. Peterson
Andrew J. Waldera
Tyler J. Anderson
Dylan B. Lawrence
Russell G. Metcalf
Benjamin C. Ritchie
Rebecca A. RaineyRobert E. Baker, of counsel
Morgan W. Richards, of counselWillis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

September 21, 2006

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise, Idaho 83701 0829208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.comNathan Erickson
Idaho Department of Water Resources
Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380Re: Water Right Nos. 47-02330 and 47-11236
MTBR&F File No. 19640.2

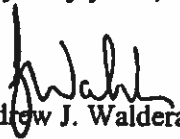
Dear Nathan:

As you know from our telephone conversation last Friday, I performed a site visit at the Seneca Buhl facility on Monday, September 18, 2006. I understand that you would like to receive certain information in order to finalize the Department's recommendation of the Seneca water rights (nos. 47-02330 and 47-11236). I am working on putting that information together. I am currently reviewing the information/records I received during my visit to the plant, however, there are other additional records and information that I am procuring from other sources such as the City of Buhl and Andrews Well Drilling.

In addition to locating/obtaining these additional items, it is also taking me additional time to keep Scott Campbell (the senior attorney on this matter) informed. My work is subject to Mr. Campbell's approval in conjunction with further discussions with Seneca corporate officials.

I mention the foregoing to illustrate that Seneca is taking this matter seriously, and that we are working diligently on your request. It is my hope and expectation to provide a full response to you by the end of next week, and sooner if possible. Unfortunately, however, control over this process is not entirely in my hands. I appreciate your ongoing patience and understanding.

Very truly yours,


Andrew J. Waldera

AJW/dll

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A47-11236

Date Received:

Receipt No: 5003707

Received By: Adm

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GREEN GIANT CO.
Address: 430 7TH AVE. SOUTH
BUHL, ID

208-543-4322

83316

2. Date of Priority: APR 01, 1944

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	15E	31	NW	SW			TWIN FALLS

5. Description of diverting works:
WELL WITH 25 H.P. SUBMERSIBLE PUMP TO PIPELINES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
INDUSTRIAL	05/15	10/30	0.440		

7. Total Quantity Appropriated is:
0.440 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acres Feet Per Annum.

9. Non-irrigation uses:
I/FOOD PROCESSING.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	15E	31	NW	SW		INDUST	

11. Place of use in counties: TWIN FALLS

A47-11236

Page 1

Date: 11/03/88

MICROFILMED

MAR 12 1993

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

A47-02330 & HOOKED TO CITY OF BUHL

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

Water Right Number: 28509

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Organizations:

I do solemnly swear or affirm that I am Manufacturing Manager of

Green Grant/Pillsbury, that I have signed the foregoing
Organization

document in the space below as Manufacturing Manager of

Green Grant/Pillsbury and that the statements contained in the
Organization

foregoing document are true and correct.

Roger Mandelkow
Signature of Authorized Agent

Manufacturing Manager - Green Grant/Pillsbury
Title and Organization

11/3/88

Date

State of Idaho

County of

Twin Falls

SS.

Subscribed and sworn (or affirmed) before me this

3rd

day

of

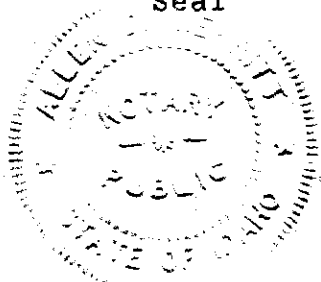
Nov.

19

88

Allen M. Menth
Notary Public

Seal



Residing at

Kimberly, Id

My Commission Expires

6/30/99

Little well

Well size - 10"

Well depth - 437'

Pump depth - 260'

Pump size - 6", 25 H.P. (Peerless GLB6)

GPM - 175-200 0.44

Year drilled - 1944

4/1/

MICROFILMED

MAR 12 1993



Dick B. Huberty
Human Resources Representative

Green Giant

March 13, 1995

State Of Idaho
Department Of Water Resources, Southern
222 Shoshone St. East
Twin Falls, ID 83301

Grand Metropolitan
Food Sector
P.O. Box 232
Buhl, Idaho 83316
(208) 543-4322
FAX (208) 543-6015

RE: Evidence Of Priority, No. A47-11236

Please accept this affidavit as our testimony to establish the year of priority for water rights No. A47-11236.

We were unable to obtain any of the recommended documents that may establish evidence of the priority date.

Green Giant is a seasonal vegetable processor and distributor. The history of our site is as follows.

- 1-13-1944, Boseman Canning Company acquired the property and built a seasonal vegetable processing facility.
- 10-1946, Name change to Pictsweet.
- 05-1949, Minnesota Valley Canning Company purchased the property from Pictsweet.
- 1950, Minnesota Valley Canning became Green Giant.
- 1958, Green Giant purchased additional land at the site.
- 1960, A major plant expansion took place and the big well (water license # G-28509/47-2330) was drilled.

Prior to 1960, water during the processing season came from the little well (No. A47-11236). We feel the year of priority for the little well (No. A47-11236) should be 1944. This water source was used off and on until the early 80's. The big well is our main water source during the processing season. The little well can be used as an emergency back-up.

Our intention is to preserve our rights to the water of the little well as future expansion of the facility may call for increased water useage.

Please contact us if additional discussion is necessary.

Sincerely,

Dick Huberty
HR Manager

RECEIVED

MAR 16 1995

Department of Water Resources
Southern Region

Roger Mandelkow
Plant Manager

NOV 29 1996

STATE OF Idaho)

COUNTY OF Twin Falls)

RECEIVED
MAR 16 1995
Department of Water Resources
Southern Region

On this 13 day of March 19 95, before me a

Notary Public within and for said County, Personally appeared _____

Roger Mandelkow and Dick Huberty, to me personally known to be

the (~~persons~~) persons) described in and who executed the within and foregoing
instrument as (~~his~~ ~~her~~ or their) free act and deed.



Beverly Lodge
Notary Public

My commission expires 9-18-95



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

Governor PHILIP E. BATT

R. KEITH HIGGINSON
Director

January 10, 1995

A47-11236
GREEN GIANT CO.
430 7TH AVE. SOUTH
BUHL

ID 83316

RE: Evidence of Priority

Dear Claimant:

* RESPONSE DEADLINE *
* MARCH 15, 1995 *

The Notice of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates your water usage is based on "Beneficial Use" or a "Statutory Claim". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. The Department will, at a later date, conduct reviews &/or field exams for the claims in your area. Since the priority date of a beneficial use water right can not be confirmed by field examination, proof must be provided by the claimant supporting the priority date claimed.

If you no longer own the property to which the claim is appurtenant please forward this correspondence to the present owner, or return it to the department. If you have received this correspondence from the previous owner of the property it is recommended that you file a Change of Ownership form with the Department in order to receive future mailings and to continue to be a party in the adjudication.

Please find enclosed a computer printout of your Notice of Claim and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

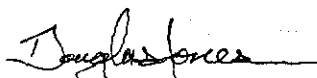
SPECIAL NOTE: The Department will not recommend the Notice be decreed by the court as claimed if no evidence of a priority date is submitted. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement must be in the form of a

January 10, 1995
page 2

notarized affidavit.

Please submit the required evidence supporting the priority date by March 15, 1995, referencing all documents with the corresponding Notice number. If you have any questions not covered by this letter or the enclosed pamphlet, please contact this office.

Sincerely,


Douglas Jones, P.E.
Water Rights Supervisor

Enc.

MICROFILMED

NOV 29 1996