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RECEIVED  
AUG 11 2004  
Department of Water Resources  
Southern Region

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

|                |   |                                                |
|----------------|---|------------------------------------------------|
| In Re SRBA     | ) | <b>AFFIDAVIT OF EVAN D. NELSON</b>             |
|                | ) | <b>IN SUPPORT OF SRBA CLAIMS</b>               |
| Case No. 39576 | ) | <b>45-02747, 45-02748, 45-02749, 45-02758,</b> |
| _____          | ) | <b>45-02763, AND 45-07137</b>                  |

|                  |       |  |
|------------------|-------|--|
| STATE OF IDAHO   | )     |  |
|                  | ) ss: |  |
| COUNTY OF CASSIA | )     |  |

I, Evan D. Nelson, after first being duly sworn upon oath, depose and state that:

(1) My name is Evan D. Nelson. From March 1971 until October 1989, I was the Factory Manager for Ore-Ida Foods in Burley, Idaho. I retired from Ore-Ida Foods in 1993. Ore-Ida Foods was a subsidiary of the H. J. Heinz Company. I supervised all operations for both plants at the Burley site and was familiar with the use of the wells at the plants. The plants are currently owned and operated by McCain Foods USA Inc.

(2) During my years as the Factory Manager, to the best of my knowledge, we drilled a new well between plant 1 and 2 and deepened another well. I cannot recall any additional wells but that does not mean we did not.

(3) The wells operated 24 hours per day during production. The actual production days in a year would vary depending upon growing conditions and market conditions. Also, refrigerated storage helped extend production. For these reasons, the following figures are

provided as minimums. During the fall harvest, the wells operated a minimum of six days per week. If there was a shutdown between the old crop and the new crop of potatoes, it lasted no longer than two weeks to 30 days. During the rest of the year, the wells operated a minimum of five days per week. Production schedules would vary from year to year, depending upon sales requirements, but we planned for a minimum of 280 to 285 days in the event we were required to do so.

(4) The wells also operated on a year-round basis to supply water for rest rooms and to supply water for the condensers in cold storage. During production shutdown, the wells were also used to supply water for cleanup, such as cleaning the freeze tunnels.

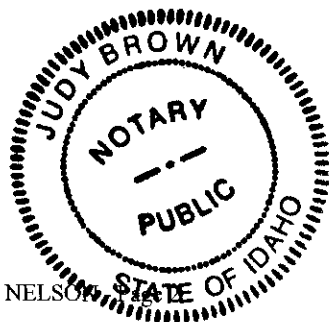
(5) I am aware that the Idaho Department of Water Resources, based on field exams at the Burley plant in 1982, found that the plant operated five days per week (260 days per year) and that the well pumps ran 12 hours each day the plant was operated. From my personal knowledge, I know the wells operated 24 hours each day during production and that production occurred a minimum of 280 to 285 days per year. In addition, the wells were used for cleanup during production shutdown and used year-round for rest rooms and cold storage condensers.

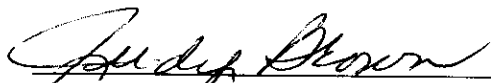
FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 11<sup>th</sup> day of August 2004.

  
EVAN D. NELSON

SUBSCRIBED AND SWORN before me on this 11<sup>th</sup> day of August 2004.



  
Notary Public for Idaho  
Residing at Paul, Idaho  
Commission Expires: 8-2005

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AFFIDAVIT OF EVAN D. NELSON