

27-4019

FAX COVER SHEET

May 10, 2005

TO: Cindy Bird
IDWR Soda Springs Office

Fax: 208-547-3939

FROM: Beeman & Associates, P.C.

FILE NO.: Basic American: license 27-2116 (and SRBA claim 27-2116) and
SRBA claim 27-4019

MESSAGE: Following is a copy of the signed affidavit for Robert Beal.
The hard copy will be mailed tomorrow. Thank you.

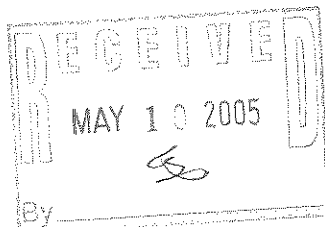
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ORIGINAL BY MAIL: YES ☒ NO ☐

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**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	)	
	)	
Case No. 39576	)	AFFIDAVIT OF ROBERT BEAL
	)	IN SUPPORT OF SRBA CLAIMS
	)	27-2116 AND 27-4019

STATE OF IDAHO	)
	) ss:
COUNTY OF BINGHAM	)

I, Robert Beal, after first being duly sworn upon oath, depose and state that:

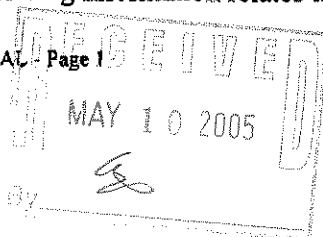
(1) My name is Robert Beal. From 1962 to the present, I have been a fulltime employee for the potato processing plant now owned and operated by Basic American, Inc. in Shelley, Idaho. At present, I am the Maintenance Superintendant for the plant.

(2) Due to my length of employment at the Shelley facility, I am familiar with the plant, its systems, and its history. This includes the use and operation of the wells at the plant.

(3) There have been only three wells at the processing plant, as described in Merlyn Browning's affidavit. I have reviewed Mr. Browning's affidavit which was previously filed in support of SRBA claims 27-2116 and 27-4019. The continuously functioning plant wells are commonly known as well #2 and well #3. The third well at the plant was covered by the warehouse and has not been in use since the warehouse was built.

(4) The following information relates to the exact locations of well #2 and well #3

AFFIDAVIT OF ROBERT BEAL - Page 1



and the physical attributes and diversion capacities for each well.

(5) Well #2 is 16" in diameter and 150' in depth; it is equipped with a 60 horsepower pump and diverts 650 gallons per minute (1.45 cfs). It is located in the NE ¼ SE ¼ Section 32, T1N, and R37E.

(6) Well #3 is 20" in diameter and 243' in depth; it is equipped with a 100 horsepower pump and diverts 1000 gallons per minute (2.66 cfs). I am aware that SRBA claim 27-4019 states that there are three production wells all 150 feet deep; however, there are only two production wells and well #3 is 243 feet deep. After examining the map submitted with SRBA claim 27-4019 and the map submitted with SRBA claim 27-2116, well #3 appears to be both the well in claim 27-2116 and the most southeastern well on the map with claim 27-4019. To the best of my knowledge, well #3 is located in the NE ¼ SE ¼ Section 32, T1N, and R37E.

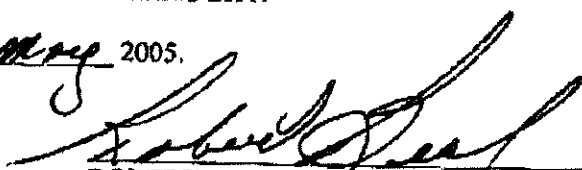
(7) Well #2 and Well #3 have always been interconnected.

(8) Water used in the restrooms is about 50,000 gallons per day throughout the year.

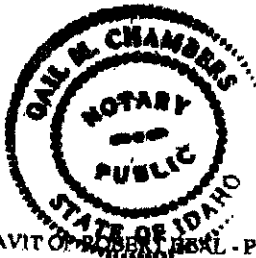
(9) Prior to November 19, 1987, the highest number of days of production in a year was 338.

FURTHER YOUR AFFLIANT SAYETH NAUGHT.

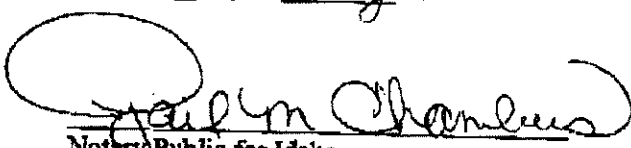
Dated this 10 day of May 2005.

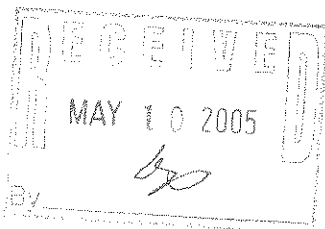

ROBERT BEAL

SUBSCRIBED AND SWORN before me on this 10 day of May 2005.



AFFIDAVIT OF ROBERT BEAL - Page 2


Notary Public for Idaho
Residing at Reynolds, Idaho
Commission Expires: 01/12/2010



Bird, Cindy

From: Jo Beeman [jo.beeman@beemanlaw.com]
Sent: Sunday, May 08, 2005 6:27 AM
To: Cindy Bird (IDWR)
Cc: Bruce Wright; Joyce Angell (B&A); Jo Beeman ; 'B&A Office'
Subject: Basic American Shelley plant SRBA claims 27-4019 and 27-2116

*forwarded to Eunice
 5/9/05
 10:22am.*

Cindy,

I attach a draft affidavit of Robert Beal (who has worked at the Shelley facility since 1962) as well as a pdf file of the Merlyn Browning affidavit which you already have. Basic American is reviewing the affidavit, and since I will be out of town this next week, my office will coordinate with Basic American to provide a signed, notarized final affidavit to you.

Mr. Beal's affidavit establishes the location and physical characteristics of the two production wells, and in the process clarifies that well #2 is associated with license 27-2116 (and SRBA claim 27-2116) and well #3 is associated with SRBA claim 27-4019; however, the wells are interconnected and should be alternate points of diversion for 27-2116 and 27-4019. Mr. Beal's affidavit states that both wells are in the NESE of Section 32, T1N, R37E, after reviewing the maps in the SRBA and IDWR files. If IDWR has more accurate aerial photos, I have suggested that Basic American check those to confirm the legal description for the wells. Mr. Beal's affidavit also confirms that prior to November 19, 2005, the plant's highest number of production days in a year was 338.

In order to establish historic diverted volume, Basic American would use 338 days of production and 27 days of non-production. Mr. Beal's affidavit provides a figure of 50,000 GPD for bathroom use throughout the year; this exits the plant to the sewer system for the City of Shelley. Mr. Browning's affidavit establishes that on nonproduction days, the flow from the plant's water use was about 200 gpm. Mr. Browning's affidavit also establishes that the wells operated 24 hours a day during production, and Mr. Beal's affidavit establishes that the wells divert 650 gpm and 1000 gpm, respectively. The total maximum historic annual diverted volume is in the range of 2195 AF or 715 mgy.

I realize you are in the final stages of preparing the preliminary proposed recommendations for basin 27. We appreciate your including this information in the SRBA files for the Shelley plant.

Jo

Josephine P. Beeman
 Beeman & Associates, P.C.
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 Fax: 208-331-0954
jo.beeman@beemanlaw.com

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5/9/2005

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**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)
Case No. 39576)
_____)

**AFFIDAVIT OF MERLYN BROWNING
IN SUPPORT OF SRBA CLAIMS
27-4019 AND 27-7411**

STATE OF IDAHO)
COUNTY OF BINGHAM) ss:
COUNTY OF BINGHAM)

I, Merlyn Browning, after first being duly sworn upon oath, depose and state that:

(1) My name is Merlyn Browning. From 1958 through August 1996, I was a fulltime employee for the potato processing plant now owned and operated by Basic American Foods, Inc. in Shelley, Idaho. I was first employed by the R. T. French Company and then the Pillsbury Company. The Pillsbury Company owned the plant at the time of my retirement in 1996.

(2) From 1958 to 1974, I was the maintenance foreman and then the maintenance packaging foreman at the processing plant. In 1974, the plant stopped discharging its process water and operating water into the Snake River and added "spray fields" for the year-round land application of its process water and operating water. From 1974 to August 1996, I was the contract employee responsible for year-round operation of the "spray fields." My son Dave Browning assumed those responsibilities in August 1996 and is the current contract employee for the "spray fields."

(3) Due to my employment, I was familiar with the use and operation of the wells at the plant from 1958 through August 1996, the land application of the plant's process/operating water at the "spray fields" from 1974 through August 1996, and the use and operation of the well at the "spray fields" from its first use in the summer of 1984 through August 1996.

(4) The plant wells were commonly known as well #2 and well #3. Their location never changed and their use remained generally the same over time. A third well at the plant stopped operating about 40 years ago when the warehouse was built over its location.

(5) Well #2 and well #3 operated continuously, except for repairs and maintenance. They supplied water for the potato dehydration operations of the plant when the plant was in production. The actual production days in a year could vary depending upon growing conditions and market conditions. The plant was usually in production twenty-four hours a day from sometime in August to mid-July. This could range from at least 310 days to sometimes more than 330 days in some years.

(6) Well #2 and well #3 also supplied water year round at the plant for restrooms, steam heating, general cleaning, and air compressors. The air compressors required large quantities of water at all times and had their heaviest use during production shut down. Cleanup operations typically occurred for eight hours every two weeks. The wells also supplied water for landscaping. The water supplied to the restrooms exited the plant to the sewer system for the City of Shelley.

(7) This mode of operation occurred from 1958 through my retirement in August 1996.

(8) Water from the plant began to be land applied to the "spray fields" in 1974. The water from the plant was supplied year round to the "spray fields". Process water was supplied through out the days the plant was in production. When the plant was not in production, the

water from ongoing plant operations to the "spray fields" was about 200 gallons per minute. The land application occurred continuously from 1974 through my retirement in August 1996.

(9) The small well at the "spray fields" was drilled and began operation in the summer of 1984. It was near the location where the pipe from the plant connected to the irrigation lines for the land application system at the "spray fields". The use of this small well remained generally the same over time. Throughout the year, it was used to clean the line which carried the water from the plant and to purge the irrigation lines for the "spray fields". The purging was done once or twice a week. The well was also used to prime the canal pumps when canal water was mixed with water from the plant for land application during the growing season.

(10) This mode of operation occurred from the summer of 1984 through my retirement in August 1996.

(11) I am aware that the R. T. French Company filed a claim 27-4019 with the Idaho Department of Water Resources in 1979 that states the wells at the plant were used for commercial purposes from September 15 to July 1, although the wells were actually operated year round for the plant. Lynn Sirrine signed the claim and may have focused on the processing cycle that year. From my personal knowledge, I know that the wells at the plant, well #2 and well #3, operated year round since 1958. The "spray fields" were also in operation year round in 1979.

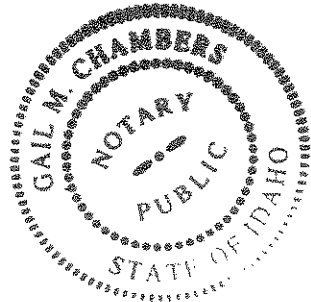
(12) I am aware that water right license 27-7411 for the small well at the "spray fields" states that the well was used March 15 to November 15, although the well was used year round. Frank Latta signed the water right application for the well and may have focused on land application during the growing season rather than the year-round land application of the plant's process water and operation water during the growing and nongrowing seasons. From my personal knowledge, I know that the well at the "spray fields" operated year round since 1984.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this ^{MB} ~~8~~ 29 day of March 2004.

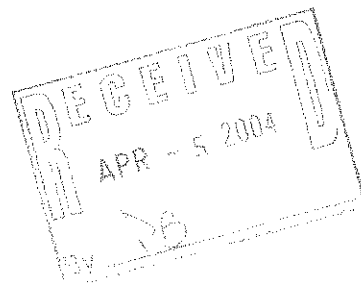
Merlyn Browning
MERLYN BROWNING

SUBSCRIBED AND SWORN before me on this 29 day of March 2004.



Gail M. Chambers
Notary Public for Idaho
Residing at Refring, Idaho
Commission Expires: 11-12-2010

Z:\1773\76161



Bird, Cindy

From: Jo Beeman [jo.beeman@beemanlaw.com]
Sent: Friday, March 26, 2004 9:47 PM
To: Cindy Bird (IDWR)
Subject: Basic American Foods (Shelley): SRBA claims 27-4019 and 27-7411

Cindy,

I have been working with Larry Sautter on the affidavit regarding year round use of the two wells at the plant (SRBA claim 27-4019) and the well at the spray fields (SRBA claim 27-7411) for Basic American Food's processing plant in Shelley.

Merlyn Browning should be able to sign the affidavit Monday or Tuesday when he returns to Shelley from Utah. It will be waiting for him in Larry's office and Larry will mail it directly to you in Soda Springs once it is signed and notarized.

Larry also wants you to know that Dan Hatch with Basic American Foods has signed the change in name forms and you will receive those shortly.

Finally, information about the plant's historical diverted volume is under review. Do you need that by March 31? Later?

I appreciate the assistance. You are welcome to call.

Jo

Josephine P. Beeman
Beeman & Associates, P.C.
Phone: 208-331-0950
Fax: 208-331-0954
jo.beeman@beemanlaw.com

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3/31/2004

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**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)

Case No. 39576)

**AFFIDAVIT OF ROBERT BEAL
IN SUPPORT OF SRBA CLAIMS
27-2116 AND 27-4019**

STATE OF IDAHO)

COUNTY OF BINGHAM)

) ss:

DRAFT

I, Robert Beal, after first being duly sworn upon oath, depose and state that:

(1) My name is Robert Beal. From 1962 to the present, I have been a fulltime employee for the potato processing plant now owned and operated by Basic American, Inc. in Shelley, Idaho. At present, I am responsible for operations at the plant.

(2) Due to my length of employment at the Shelley facility, I am familiar with the plant, its systems, and its history. This includes the use and operation of the wells at the plant.

(3) There have been only three wells at the processing plant, as described in Merlyn Browning's affidavit. I have reviewed Mr. Browning's affidavit which was previously filed in support of SRBA claims 27-2116 and 27-4019. The continuously functioning plant wells are commonly known as well #2 and well #3. The third well at the plant was covered by the warehouse and has not been in use since the warehouse was built.

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(8) Water used in the restrooms is about 50,000 gallons per day throughout the year.

(9) Prior to November 19, 1987, the highest number of days of production in a year was 338.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this _____ day of _____ 2005.

ROBERT BEAL

SUBSCRIBED AND SWORN before me on this _____ day of _____ 2005.

Notary Public for Idaho
Residing at _____, Idaho
Commission Expires: _____

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FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this _____ day of March 2004.

MERLYN BROWNING

SUBSCRIBED AND SWORN before me on this _____ day of March 2004.

Notary Public for Idaho

Residing at _____, Idaho

Commission Expires: _____

Z:\1773\76161