

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

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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

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

STATE OF IDAHO

COUNTY OF BINGHAM

)
) ss:
)

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.

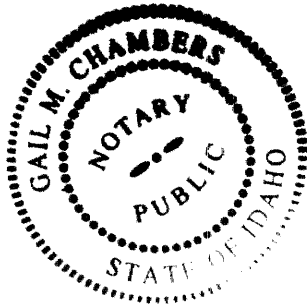
(12) I am aware that water right license 27-7411 for the small well at the "spray fields" states that the well was used March 15 to November 15, although the well was used year round. Frank Latta signed the water right application for the well and may have focused on land application during the growing 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 Refugio, Idaho
Commission Expires: 11-12-2010

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