

Ruberry, Allen

From: Bryce Contor [bcontor@if.uidaho.edu]
Sent: Tuesday, May 31, 2005 8:20 AM
To: jo.beeman@beemanlaw.com
Cc: kekeller@baf.com; bwright@baf.com; aruberry@idwr.state.id.us
Subject: Basic American Foods Water Rights - Rexburg

Dear Ms. Beeman -

On Friday Keith Keller and Eric Eastin showed me the wells and facilities associated with the Basic American Foods water rights in Rexburg. I told Mr. Keller I'd send you a summary of what we found, with a copy to him.

1) A22-02204. This is for the main water supply for the plant. The original license is for one well in 6N 40E 19 NWNE. The original well is actually in NENE, the large well known as "Well A." There is a second well, "Well C," in the NWNE. Mr. Keller and Mr. Eastin had supposed that this well was the well claimed under A22-10008, but inspection of the claim and documentation suggest that A22-10008 is a well across the road to the north at a maintenance shop.

Basic American Foods may wish to consider amending claim A22-02204 to show the correct location of the original well and to add Well C as an accomplished second point of diversion. It may also be well to amend the place of use to include both the NWNE and the NENE, as the plant actually overlaps the line between these two quarter-quarters. These differences in location appear to arise from better aerial photography that was not available to the licensing examiner, not to any change that has been made by Basic American Foods.

The license does not specify an annual volume. I forgot to double-check my assumption (based on license 22-7391) that the plant operates 24 hours/day, 365 days/year. If Mr. Keller, Mr. Wright or Mr. Eastin could call Al Ruberry at 525-7161, or me at 681-9100, to confirm this, that would aid in making a correct recommendation.

2) A22-04063. This is for the well at the former Meyers Brothers feedlot. About a year ago the well was capped and buried, in anticipation of moving it to a new location to allow for changing the irrigation system. Mr. Keller and Mr. Eastin are working on getting affidavits to establish priority and the capacity of diversion works. The water right is based on the original beneficial use for the feedlot. Since the feedlot is no longer in use, I expect Basic American Foods will want to transfer the water right to a different use, or resume using it for some other commercial purpose at the same location.

The claim lists only the SESW of 7N 40E 28 as the place of use, but the aerial photos clearly show that use also occurred in the NESW, the NWSE and the SWSE. Since this water right will likely be transferred to a different use in the future, it may not matter, but your clients might want to consider an amendment to include all four quarter-quarters. I did not discuss with Mr. Keller and Mr. Eastin that a future transfer will need to occur before the water right is forfeited for non-use.

3) A22-07391. This is for the boiler well, "Well B" at the main plant. The license and the physical connections allow it to be used within any part of the plant. As with A22-02204, the place of use and point of diversion are both listed as 6N 40E 19 NWNE. The well is actually in NENE and the place of use is in both NWNE and NENE. Basic American Foods may wish to consider an amended claim.

4) A22-10008. This is a beneficial use claim for the well known as the "Anderson Well," which serves a small maintenance shop across the road to

Don't need amended claim. Recommend as found in field exam and license. There have been no changes, so everything should be original.