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October 5, 1995

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Department of Water Resources
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Mr. Dave Carlson
Water Right Agent, Adjudication
Department of Water Resources
900 North Skyline Drive
Idaho Falls, Idaho 83402-1718

Re: FMC Corporation/Water Right Claim No. A29-11342

Dear Dave:

In your letter of January 3, 1995, to FMC Corporation you indicated that the captioned claim was "based on beneficial use" and requested verification of the priority date claim and beneficial use. This letter and enclosures are to respond on behalf of FMC. Thanks for your patience. As I indicated to your office previously, the delay in responding was necessary while we investigated the records of the City of Pocatello, from whom FMC acquired the property in 1992, together with the historic use.

First of all, this water right and the priority date claimed are not based upon beneficial use, but upon water License No. G-24451 issued by the State Reclamation Engineer on December 12, 1958, to the City of Pocatello with a priority date of September 1, 1953. The total quantity was for 14.76 cfs. This license included 6 wells owned by the City of Pocatello, identified as Well Nos. 1, 2, 11, 12, 13 and 15. This claim number A29-11342 relates to what the city identified as Well No. 11 in the NE1/4 SE1/4, Section 12, Township 6 South, Range 33 East, B.M.

We have secured and enclose for filing in support of this water right claim Affidavits of Peter McDougall, City Clerk for the City of Pocatello, and Annie Gallegos and James Simpson.

The Affidavit of Peter McDougall, together with the attached Exhibits "A" and "B", documents from the City records, detail the history of the well and the continuous diversion and application to beneficial use of water from the well. Exhibit "A" is a report prepared by the City in December of 1953 regarding this well, which was commonly known as the old well at the old airport known as the "Pilot House" well. The report indicates that the present well was drilled by A.J. Schoonover which was started on June 16, 1952, and completed July 24, 1952, to a depth of 113 feet. The second paragraph of the report also indicates that the well drilled in 1952 was a replacement of an original well located approximately 100 feet to the west, which was relocated because it was in the new highway right-of-way.

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The old well site would appear to support a priority date earlier than when the second well was drilled and put to beneficial use in 1952.

The history of the initial well is interesting and discussed in the Affidavit of Annie Gallegos. The well was in use during the early 1940's when it supplied culinary water at the old Pocatello Airport to an airport administration building and also an adjacent building, which later became known as the "Pilot House". The Pilot House was a building that housed fighter pilots that were in training at the airport prior to and during World War II.

24-02338 Exhibit "B" to Mr. McDougall's Affidavit is the Department of Reclamation's Certificate of Completion of Works and the License and Certificate of Water Right issued under Permit No. G-24451. These documents evidence the diversion and application to beneficial use of the water right from the time the well was drilled until December 12, 1958, when the license was issued.

About that same time, the Pocatello Airport was relocated at the present site. From 1960 through 1968 the City leased the property and well to Dale and Donna Helmsley, who converted the Pilot House to a restaurant and maintained a residence on the property. From 1968 through 1990 the City leased the same to Dan and Annie Gallegos, who purchased the Pilot House Restaurant from the Helmsleys. During those periods, the well continued to be used to supply culinary water to the restaurant and the residence.

From 1972 through 1990, the City also leased another portion of the property to the Utah-Idaho Grain Exchange and the same well was used to supply their culinary water. That use continued by Idaho Grain Inspection Service until July 1995. These facts are detailed in the supporting Affidavits.

Based on the foregoing and the enclosed Affidavits, the claimed priority date and continuous period of beneficial use is clearly established. If you have any questions or desire any additional information, please feel free to contact me.

Sincerely,



RANDALL C. BUDGE

RCB:rr
Enclosures
cc: R.L. Mills, Energy Manager/FMC (w/encls.)

NOV 14 1995