

NOTICE OF ERROR  
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 22-2204  
BASIC AMERICAN FOODS  
AMERICAN POTATO CO  
40 E 7TH N  
REXBURG ID 83440  
Telephone Number: (208)356-3631

PROFILED

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

Quantity  
Point of Diversion  
Purpose and period of use

SCANNED

2. Describe the changes you wish to make in the proposed recommendation:

JUN 29 2006

Basic American Foods realizes that it may need to amend SRBA claims 22-2204, 22-7391, and 22-10008 AND/OR file new SRBA claims as a result of the listed changes:

QUANTITY: 2.66 cfs

QUANTITY: USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 2577.4 AF. COMBINED RIGHT NOS.: 22-7391, 22-10008

POINT OF DIVERSION: T06N R40E S19 NWNENE Within MADISON County (2 WELLS)

PURPOSE AND PERIOD OF USE: THE WATER DIVERTED UNDER THIS RIGHT FOR INDUSTRIAL PURPOSES MUST FIRST BE USED IN ASSOCIATION WITH THE POTATO PROCESSING PLANT LOCATED IN T\_\_S, R\_\_E, S\_\_, \_\_\_\_ AND \_\_\_\_\_. AFTER WATER IS USED FOR INDUSTRIAL PURPOSES IN ASSOCIATION WITH THE POTATO PROCESSING PLANT, IT MAY BE APPLIED TO AND USED FOR THE IRRIGATION OF THE LAND DESCRIBED IN THE PLACE OF USE FOR INDUSTRIAL PURPOSES IN T\_\_S, R\_\_E, S\_\_, \_\_\_\_ TO SATISFY WATER QUALITY REQUIREMENTS. THE INDUSTRIAL USE OF WATER UNDER THIS RIGHT INCLUDES THE TREATMENT OF WASTE WATER WITH FRESH WATER

3. Give a brief explanation as to why you disagree with these portions:

The original license file for 22-2204 shows that 3.56 cfs was diverted and in use from October/November 1961.

but it was only licensed for 2.66 cfs.  
not changing.

I AGREE with this proposed recommendation: no changes need to be made.

DATE: January 13, 2006

SIGNATURE:

Josephine P. Beeman

Please print your name:

Josephine P. Beeman  
Attorney for Basic American Foods, Inc.  
Beeman & Associates, P.C.  
409 W. Jefferson Street  
Boise, ID 83702  
(208) 331-0950

RECEIVED

JAN 17 2006

Department of Water Resources  
Eastern Region

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

Claim A22-2204

I met with Keith Keller of Basic American Foods in Early Oct, 2005. The intent was to answer Al Ruberry's questions on the claims.

Please refer to the map of P.O.D's provided by Bryce Contour.

g/ Mr. Keller states that well "C" was a pre-existing domestic well for in-house use but not Industrial.

Date installed - unknown (use at maintenance shop)

b/ Well "C" is not connected to Wells A + B

c/ Wells "A" + "B" are interconnected

d/ Well "B" is the well for License 22-7391  
(GPS shows NENE)

e/ Well "A" is the original well for 22-2204  
but GPS shows it in a different 1/4 of 1/4.

f/ Place of use for 22-2204 was always static.  
Original License should have included NENE also

g/ Keith Keller phone 785-8572  
415 W. Collins cell 317-8576  
Bladefoot, ID 83221

contacted on 12-2-05  
+ still does not have  
affidavit for A22-4063

HW Jones

## 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. CO3.

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. CO5.

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

the north of the plant. It is a beneficial use claim, but the claimed priority date and evidence of priority are after the statutory permit date of 1963. However, the use appears to be well within the 2,500 gallon per day de minimus non-residential domestic classification, which can be recommended with a post-1963 priority date without evidence of priority. If this is acceptable, no further action should be necessary. Otherwise, your clients may wish to amend the priority date on the claim and provide evidence of priority earlier than the mandatory permit date.

Please call me at 681-9100 if you have questions. Today I will pass the files on to Mr. Ruberry at IDWR, who will be processing the actual recommendations for these water rights.

Sincerely, Bryce Contor  
Subcontractor for IDWR Adjudication Bureau,  
Eastern Regional Office

Basic American Foods, Olexburg  
A22-02204, A22-07391  
Current Condition



USDA 2004 NAIP photography  
(georeferenced by Water Resources Field Services)



- Well locations (manually placed)
- PLSS Section LinesGcdb\_sections.shp
- Gcdb\_tr.shp
- Gcdb\_qq.shp

Illustration prepared by  
Water Resources Field Services  
208 681 9100

Claim No. 22-2201

Document Checklist

☒ Copy License/Decree

☐ Copy Transfer

☐ Copy Licensing Field Exam

☒ Check if Ownership/Address Change is Required

☐ Generate, mail and file "Evidence of Priority" letter

☒ Generate Arcview Map

See A22-7391, A22-10008

Claim no. A22-2204

### Claimant Contact Log

Date \_\_\_\_\_

### Remarks

**Agent initials**

18 May 05 356-3631 Kiethe Keder xt 8572 Bac  
Call Bruce Wright -

Probably next week - Eric Easton @ Rexburg  
359-6843

Discussed evidence of priority for A22-4063, A22-10008

27 May 05 Field inspection, accompanied by  
Kieren Keller and Eric Eastin *Bac*

27 May 05 msg on Eric East's answering machine asking for confirmation of plant operating hours.

## Contacts Data Entry Form

Claim Number: A22-2204

| Owner Type | Full Name | Address | City | State | Zip |
|------------|-----------|---------|------|-------|-----|
|------------|-----------|---------|------|-------|-----|

Current Owner: \_\_\_\_\_ Phone No.: \_\_\_\_\_

Current Owner: \_\_\_\_\_ Phone No.: \_\_\_\_\_

Current Owner: \_\_\_\_\_ Phone No.: \_\_\_\_\_

Name connector: and \_\_\_\_\_, or \_\_\_\_\_, and/or \_\_\_\_\_.

Representing Attorney: \_\_\_\_\_ Phone No.: \_\_\_\_\_

Accompanied By: \_\_\_\_\_ Phone No.: \_\_\_\_\_

Relationship to Claimant: \_\_\_\_\_ Date of Field Exam: \_\_\_\_\_

Discussion of right origin and split history. Questions and problems.

There are three POO at the plant proper and one at a repair shop north of the plant. It appears that well "A" on the attached layout is the original well under license 22-2204, in 6N40E19 NWNENE. Well "B" appears to be the original well under ~~the~~ license 22-7391, also in 6N40E19 NWNENE. Well "C" appears to be an accomplished second POO under license 22-2204, in 6N40E19 NENWNE.

Claimants originally believed that claim A22-10008 referred to well "C" but examination of the claim & the name "Anderson" on the well log in A22-10008 suggest that A22-10008 refers to a well at the maintenance shop north of the plant in section 18 (not illustrated on the layout).

Because of fuel buildings next to the wells, GPS accuracy was poor ( $\approx 35$  meters) so the manually-placed points on the layout are probably a better location guide than the GPS readings.

Please see e-mail in A22-10008 regarding discussion of amended claim for second POO under A22-2204.

JAC 30 May 05

Reviewer: \_\_\_\_\_ Date: \_\_\_\_\_

## Priority Date Data Entry Form

Claim Number: A22-2204

Water Right Priority Date: \_\_\_\_\_ Water Right Basis: \_\_\_\_\_

Claimed Priority Date: \_\_\_\_\_ Claimed Basis: \_\_\_\_\_

Recommended Priority Date: \_\_\_\_\_ Recommended Basis: \_\_\_\_\_

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

Copy of license shows 30 March 1961 BAC 30 May 05

Reviewer: \_\_\_\_\_

Date: \_\_\_\_\_

Water Right No(s). A22-2204

1st POP tag E0006916 (well "A")

Motor: US Motors 100 hp

SN B-9981-03-176-R2112711

tag is on sand valve @ left side of  
pump house about eye level.

2nd POP tag E0006987 (well "C")

Motor controller has no hp

identifiers but conduit is

small indicating only a few hp

at most. Tag is banded to

Motor conduit.

GPS DATA:

Tag # \_\_\_\_\_ Location: \_\_\_\_\_

Diversion Data:

Source: \_\_\_\_\_ Trib to: \_\_\_\_\_

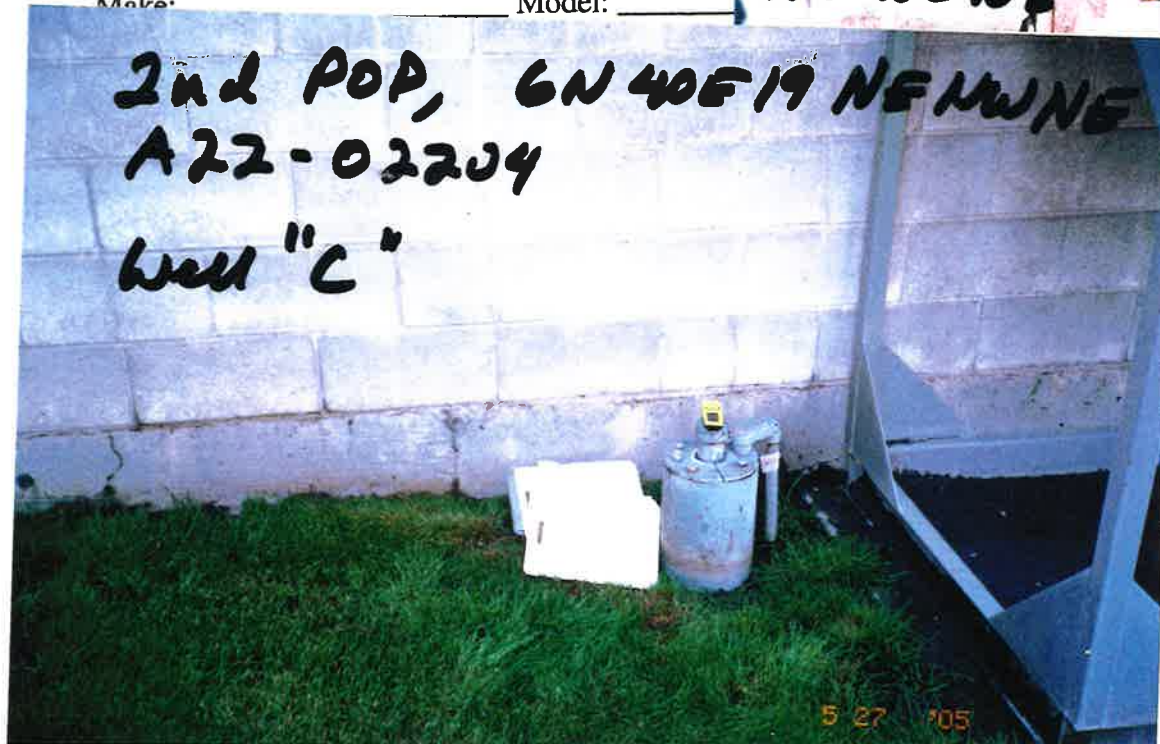
MOTOR

Make: \_\_\_\_\_ Model: \_\_\_\_\_

A22-2204 well "A"

1st POP  
6N 40E 19  
NW NE NE

2nd POP, 6N 40E 19 NE NW NE  
A22-02204  
Well "C"



## Point of Diversion and Source Data Entry Form

Claim Number: A22-2204Water Right Point(s) of diversion and Source.

Water Right Point of Diversion: T \_\_\_\_\_, R \_\_\_\_\_, Sec. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, County: \_\_\_\_\_

Source: \_\_\_\_\_ Tributary to: \_\_\_\_\_

Water Right Point of Diversion: T \_\_\_\_\_, R \_\_\_\_\_, Sec. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, County: \_\_\_\_\_

Source: \_\_\_\_\_ Tributary to: \_\_\_\_\_

Claimed Point(s) of Diversion and Source.

| Twp   | Rge   | Sec   | Gov Lot | QQQ of QQ of Q | County | Source | Tributary to |
|-------|-------|-------|---------|----------------|--------|--------|--------------|
| _____ | _____ | _____ | _____   | _____          | _____  | _____  | _____        |
| _____ | _____ | _____ | _____   | _____          | _____  | _____  | _____        |
| _____ | _____ | _____ | _____   | _____          | _____  | _____  | _____        |

Recommended Point(s) of Diversion and Source.

| Twp   | Rge   | Sec   | Gov Lot | QQQ of QQ of Q | County | Source | Tributary to |
|-------|-------|-------|---------|----------------|--------|--------|--------------|
| _____ | _____ | _____ | _____   | _____          | _____  | _____  | _____        |
| _____ | _____ | _____ | _____   | _____          | _____  | _____  | _____        |
| _____ | _____ | _____ | _____   | _____          | _____  | _____  | _____        |
| _____ | _____ | _____ | _____   | _____          | _____  | _____  | _____        |

Other rights from this POD? \_\_\_\_\_

Transfers Pending or approved: \_\_\_\_\_

Document how the POD and Source were verified:

License shows 6N 40E 19 NWNE but original well is actually located in NWNE. Second well is in 6N 40E 19 NENWNE. GPS readings have poor accuracy.

Original well ("A") Waypoint 18 2678270 E 1406697 N DOME3

Second well ("B") Waypoint 20 2678230 E 1406697 N DOME3

BAC 30 May 05

Reviewer: \_\_\_\_\_ Date: \_\_\_\_\_

## Place Of Use Data Entry Form

Claim Number: A22-02204Claimed Place Of Use

| Twp | Rge | Sec | QQ | Q | County | Lot Num | Acres | Purpose of Use |
|-----|-----|-----|----|---|--------|---------|-------|----------------|
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |

Total acres \_\_\_\_\_

Recommended Place of Use

| Twp | Rge | Sec | QQ | Q | County | Lot Num | Acres | Purpose of Use |
|-----|-----|-----|----|---|--------|---------|-------|----------------|
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |

Total acres \_\_\_\_\_

Pending or approved Transfers: \_\_\_\_\_

Overlapping rights: \_\_\_\_\_

Document how the POU was verified:

license shows 6N 40 E 19 NWNE. Aerial photo shows use actually occurs in both NWNE and NENE. BAE 30 May 05

Well "A" is connected to the entire plant. Well "C" is connected only to the North warehouse. BAE

Reviewer: \_\_\_\_\_ Date: \_\_\_\_\_

## Season of Use and Quantities

Claim Number: A22-2204Water Right Period of Use and Diversion Rate

Water Use Start

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |

Overall Diversion Rate \_\_\_\_\_

Overall Diversion \_\_\_\_\_

Claimed Period of Use and Diversion Rate

Water Use Start

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |

Overall Diversion Rate \_\_\_\_\_

Overall Diversion \_\_\_\_\_

Recommended Period of Use and Diversion Rate

Water Use Start

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |

Overall Diversion Rate \_\_\_\_\_

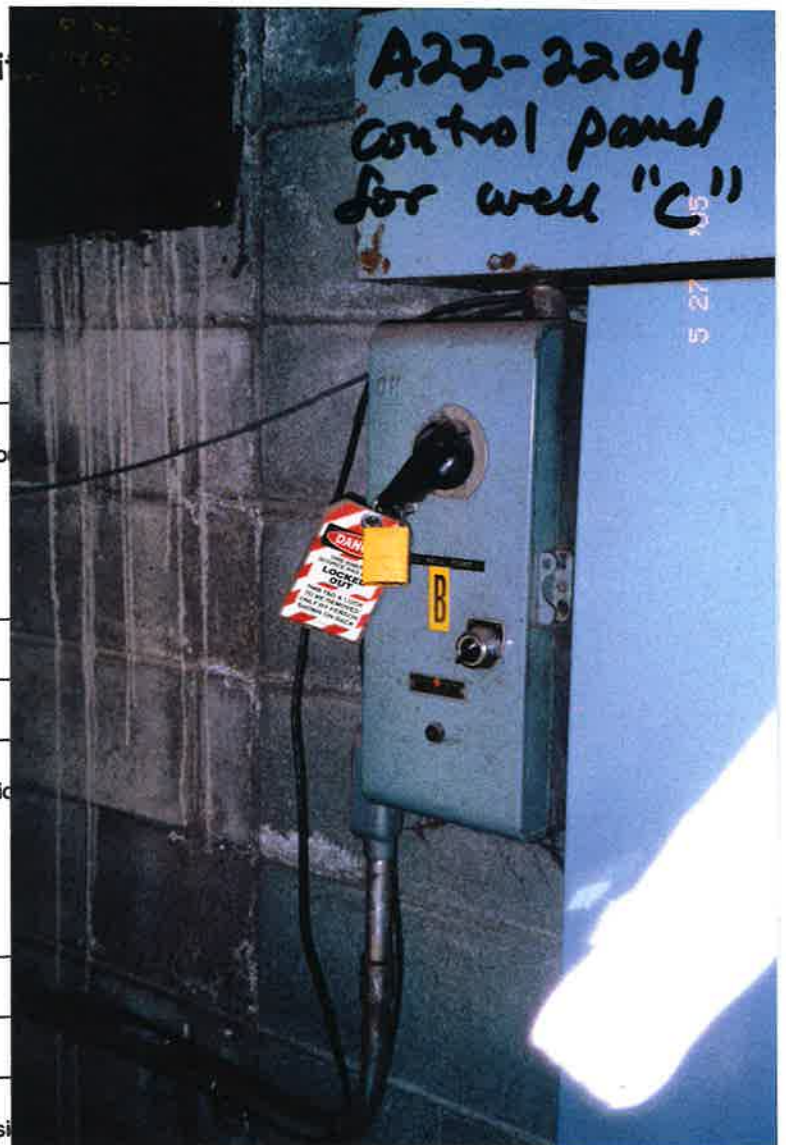
Overall Diversion \_\_\_\_\_

Document how the Period of Use and/or Diversion Rate were verified:

License shows 2,666 gpm w/o annual volume. Season is also omitted from license. I forgot to ask but from license A22-7391 it appears plant operates year round, around the clock. License A22-7391 authorizes volume equal to year-round steady pumping. DAC 30 May 05.

Reviewer: \_\_\_\_\_

Date: \_\_\_\_\_



**State of Idaho**  
**License and Certificate of Water Right**

Water License No. G-29600

Amount 2.66 c.f.s.

Water District No.

Priority March 30, 1961

THIS IS TO CERTIFY that ROGERS BROTHERS COMPANY  
of Idaho Falls, Idaho, made application for a permit to appropriate the  
public waters of the State of Idaho, dated March 30, 1961; that Permit No. G-29600  
was issued under said application; that Certificate of Completion of works, with a carrying capacity of  
2.66 second feet, was issued thereunder on May 1, 1967, showing that said works  
were completed on the 16th day of March, 1966; and that on the 16th  
day of March, 1966, ROGERS BROTHERS COMPANY

of Idaho Falls, State of Idaho, made proof to the satisfaction of the  
State Reclamation Engineer of Idaho, of the right to use the waters of a well,  
a tributary of subterranean flow, for the purpose of industrial - potato pro-  
cessing - use, under Use Permit No. G-29600 of the Department of Reclamation,  
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,  
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume  
14 of Licenses at page 8810, on the 1st day of May, 1967;  
The right hereby confirmed dates from March 30, 1961;

The Point of Diversion is located  
in the NW 1/4 NE 1/4, Sec. 19, Tp. 6 N, R. 40 E, B. M., County of Madison.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes  
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall  
not exceed 2.66 cubic feet per second.

Description and location of use:

| Twp. | Range | Sec. | Forty-acre Tract                                               | No. Acres<br>Described in Permit | No. Acres<br>Actually Irrigated |
|------|-------|------|----------------------------------------------------------------|----------------------------------|---------------------------------|
| 6 N  | 40 E  | 19   | NW 1/4 NE 1/4<br>For industrial - potato processing - use only | None                             | None                            |

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place  
of use herein described, as provided by the laws of Idaho.

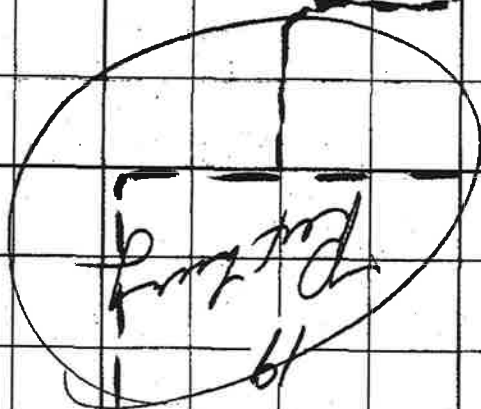
WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this  
1st day of May, 1967.

s/ R. Keith Higginson  
State Reclamation Engineer.

(SEAL)

22 2204

allow  $\phi = 1200 \text{ G.P.M. or } 133''$   
~~Sub = 1~~  
Crig = Induct from  $\phi$  down  
or 2.66 gfs



Twp 6 N.



19

28.

Rg 40 E 8 N

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION  
BOISE, IDAHO  
REPORT OF EXAMINER

Permit No. G-29600

This proof is for Completion of Works & Beneficial Use Water District No. \_\_\_\_\_

1. Name of applicant Rogers Brothers Company

2. Source of water supply: a well

3. Location of point of diversion: It is in the NW 1/4 of Section 19

T. 6 N R. 40 E., B.M. County of Madison

4. Describe works as they exist, giving dimensions and capacities of same: Fairbanks Morse Motor 75 H.P. # 288005 BM 16L 108813

Fairbanks Morse Tar line pump. Ser P2C 4487 Model 6927  
12" Discharge to Control Valve 2" Tee for domestic, to 400 Gallon pressure tank.

5. Water is used for Industrial purposes incident to operation of potato processing plant

6. State whether or not water has been turned into works of diversion: yes

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

NW 1/4, Sec. 19, T. 6 N, R. 40 E., B.M.

Usage: Operations require 1200 G.P.M.

Conservative use 1/2 or 240 G.P.M.

all water & water passes through a 250,000 Gallon settling tank then pass on to 10 acres of settling ponds, then into the Teton river.  
Residue from the 250,000 Gallon tank is fed to live stock.

(Submit map on attached plat, showing location and details of above description)

8. What large stream would the water here appropriated finally reach? Teton River

Remarks: Mr. Gerald Wheeler

Fairbanks Morse pump rated at 1200 G.P.M.

This examination was made on the 24 day of March, 1957

(Signed) Donald W. Elmore

dw plat  
29600

22-2204  
6N 40E



State of Idaho  
License and Certificate of Water Right

Water License No. G-29600/22-2204

Amount 2.66 c.f.s.

Water District No.

Priority March 30, 1961

THIS IS TO CERTIFY that ROGERS BROTHERS COMPANY  
of Idaho Falls, Idaho, made application for a permit to appropriate the  
public waters of the State of Idaho, dated March 30, 1961; that Permit No. G-29600  
was issued under said application; that Certificate of Completion of works, with a carrying capacity of  
2.66 second feet, was issued thereunder on May 1, 1967, showing that said works  
were completed on the 16th day of March, 1966; and that on the 16th  
day of March, 1966, ROGERS BROTHERS COMPANY  
of Idaho Falls, State of Idaho, made proof to the satisfaction of the  
State Reclamation Engineer of Idaho, of the right to use the waters of a well,  
a tributary of subterranean flow, for the purpose of industrial - potato pro-  
cessing - use, under Use Permit No. G-29600 of the Department of Reclamation,  
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,  
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume  
14 of Licenses at page 8810, on the 1st day of May, 1967;  
The right hereby confirmed dates from March 30, 1961;  
The Point of Diversion is located  
in the NW 1/4 NE 1/4, Sec. 19, Tp. 6 N, R. 40 E, B. M., County of Madison.  
That the amount of water to which such right is entitled and hereby confirmed, for the purposes  
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall  
not exceed 2.66 cubic feet per second.

Description and location of use:

| Tap. | Range | Sec. | Forty-acre Tract                                               | No. Acres<br>Described in Permit | No. Acres<br>Actually Irrigated |
|------|-------|------|----------------------------------------------------------------|----------------------------------|---------------------------------|
| 6 N  | 40 E  | 19   | NW 1/4 NE 1/4<br>For industrial - potato processing - use only | None                             | None                            |

MICROFILMED  
OCT 29 1992

Josephine P. Beeman #1806  
BEEMAN & ASSOCIATES, P.C.  
409 West Jefferson Street  
Boise, ID 83702  
Phone: (208) 331-0950  
Fax: (208) 331-0954  
[jo.beeman@beemanlaw.com](mailto:jo.beeman@beemanlaw.com)

*Attorneys for Basic American Foods, Inc.*

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

|                       |   |                                     |
|-----------------------|---|-------------------------------------|
| <b>In Re SRBA</b>     | ) | Subcase Nos. 22-2204 and 22-7391    |
|                       | ) |                                     |
|                       | ) |                                     |
| <b>Case No. 39576</b> | ) | <b>AFFIDAVIT OF QUENTIN BAGELEY</b> |
|                       | ) | <b>IN SUPPORT OF SRBA CLAIMS</b>    |
|                       | ) | <b>22-2204 and 22-7391</b>          |
|                       | ) |                                     |

STATE OF IDAHO            )  
                                          ) ss:  
COUNTY OF MADISON    )

I, Quentin Bagley, after first being duly sworn upon oath, depose and state that:

(1)     My name is Quentin Bagley. For 35 years, I was a fulltime employee for the potato processing plant in Rexburg, Idaho, that is now owned and operated by Basic American Inc. I began working at the plant in 1965, and I retired in 2000.

(2)     I was first employed in the shop doing night greasing and maintenance. Later, I was moved to the canning line where I was a foreman, and then to the boiler operations. For about the last 12 years of my employment, I was the utilities supervisor. My responsibilities as a

utilities supervisor included the operation of the boiler works, the process water system, and the use of water on the grounds.

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

(3) When I began working at the plant in 1965, there were three wells in place and in operation: the “Main Well,” the “Lawn Well,” and the “Truck-shed Well.” (For a map identifying the location of these three wells, *see* Attachment A to this Affidavit. This map includes the pump size of each well (if known), the water right associated with each well (if any), and the GPS coordinates for each of these wells.)

(4) The first well, known as the “Main Well,” was operated by a 100-horsepower pump. The water right associated with this well is 22-2204.

(5) The second well, known as the “Lawn Well,” was a smaller well located near the Main Well on the lawn at the front of the Rexburg plant. The Lawn Well was operated as an alternate point of diversion for the Main Well. The Lawn Well would supply water when the Main Well was shut down for maintenance or was not operating.

(6) The third well, known as the “Anderson Well” or the “Truck-shop Well,” was established during my years at the plant but before Basic American purchased the plant. It is a small well used to supply water to operate the restroom located in the truck shop of the Rexburg plant. The truck shop is one of three small outbuildings located on the east end of the Rexburg plant facility.

(8) The Main Well and Lawn Well were interconnected at the time I began work at the plant in 1965, and they remained interconnected during my employment.

(9) In 1982, the “Kipper Well” or “Boiler Well” was installed at the Rexburg plant. (This well is identified as the “Kipper Well” on Attachment A to this Affidavit.) This well was

operated by a 25-horsepower pump, and was used to boost water to the plant boiler. At the time of installation, the Kipper Well was interconnected to the Main Well and Lawn Well. The Kipper Well remained interconnected with these two wells following its installation.

(10) During my 35 years of employment at the Rexburg plant, I personally observed that the Main Well, Lawn Well, and Kipper Well were interconnected prior to November 19, 1987. These three wells remained interconnected during my employment.

DATED this \_\_\_\_\_ day of July 2007.

\_\_\_\_\_  
QUENTIN BAGLEY

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of July 2007.

\_\_\_\_\_  
Notary Public in and for the State of Idaho

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Z:1773/8/QB/7830

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

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM

Ident. Number **A22-02204**  
Date Received \_\_\_\_\_  
Receipt Number \_\_\_\_\_

**AMENDED  
NOTICE OF CLAIM  
TO A  
WATER RIGHT  
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1.

Name of Claimant

Basic American Foods

Phone (208) 356-3631

Mailing Address

245 West 1000 North

Rexburg, ID 83440
2.

Date of Priority: March 30, 1961
3.

Source of water supply: Ground water
4.

Location of point of diversion: Township 06N Range 40E Section 19 NWNE County of Madison (main well)

Additional points of diversion: Township 06N Range 40E Section 19 NWNE County of Madison (lawn well)

Township 06N Range 40E Section 19 NWNE County of Madison (kipper well)
5.

Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Three wells and pumps to plant.

6. Water is claimed for the following purposes:

(both dates are inclusive)  
For **Industrial** purposes from **01/01** to **12/31** amount **2.660 cfs**

7. Total quantity claimed: **2.660 cfs**

8. Total consumptive use claimed is **1925.0 acre feet per annum.**

9. Non-irrigation uses; describe fully. (Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) **I/potatoes**

10. Description of place of use:
- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
  - b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RNG | SEC | NE ¼ |    |    |    | NW ¼ |    |    |    | SW ¼ |    |    |    | SE ¼ |    |    |    | Totals |
|-----|-----|-----|------|----|----|----|------|----|----|----|------|----|----|----|------|----|----|----|--------|
|     |     |     | NE   | NW | SW | SE | NE   | NW | SW | SE | NE   | NW | SW | SE | NE   | NW | SW | SE |        |
|     |     |     | ¼    | ¼  | ¼  | ¼  | ¼    | ¼  | ¼  | ¼  | ¼    | ¼  | ¼  | ¼  | ¼    | ¼  | ¼  | ¼  |        |
| 06N | 40E | 19  |      | I  |    |    |      |    |    |    |      |    |    |    |      |    |    |    |        |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |        |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |        |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |        |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |        |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |        |

Total number of acres irrigated \_\_\_\_\_

11. In which county (ies) are lands listed above as place of use located? **Madison County**

12. Do you own the property listed above as place of use? **Yes**

13. Describe any other water rights used at the same place and for the same purposes as described above.  
**A22-07391**

14. Remarks: **Right No. A22-07391 is a separate well.**

15. Basis of Claim: **License**

If applicable provide IDWR Water Right Number 22-02204  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date \_\_\_\_\_  
Plaintiff vs Defendant \_\_\_\_\_

16. Signature

By signing below, I acknowledge that I have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." I **do not** wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments \_\_\_\_\_

I, **Bruce Wright**, do solemnly swear or affirm that I am the **Senior Project Manager – Environmental** of **Basic American Foods**, that I have signed the foregoing **Amended Notice of Claim to a Water Right** as the **Senior Project Manager – Environmental** of **Basic American Foods** and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent \_\_\_\_\_

Title and Organization Senior Project Manager – Environmental Date: July \_\_\_\_\_, 2007  
Basic American Foods

State of Maine )  
County of Aroostook ) SS.

Subscribed and sworn (or affirmed) before me this \_\_\_\_\_ day of July 2007.

SEAL Notary Public \_\_\_\_\_  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

17. Notice of Appearance:

Notice is hereby given that I, Josephine P. Beeman, will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature \_\_\_\_\_  
Josephine P. Beeman  
Beeman & Associates, P.C.  
409 W. Jefferson Street  
Boise, ID 83702  
(208) 331-0950  
(208) 331-0954 (fax)

Date: July \_\_\_\_\_, 2007

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

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A22-02204  
Date Received: 5/20/1988 8-25  
Receipt No: E002724

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: BASIC AMERICAN FOODS  
Address: AMERICAN POTATO CO.  
245 WEST 1000 NORTH  
REXBURG, ID 83440

208-356-3631

2. Date of Priority: MAR 30, 1961

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Department of Water Resources  
Eastern District Office

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County  |
|----------|-------|---------|--------|--------|-----|-----|---------|
| 06N      | 40E   | 19      | NW     | NE     |     |     | MADISON |

5. Description of diverting works:  
WELL & PUMP TO PLANT.

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| INDUSTRIAL | 01/01 | 12/31 | 2.660  |      |        |

7. Total Quantity Appropriated is:  
2.660 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 1925.0 Acre Feet Per Annum.

9. Non-irrigation uses:  
I/POTATOS.

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use    | Acres |
|----------|-------|---------|--------|-----|-----|--------|-------|
| 06N      | 40E   | 19      | NW     | NE  |     | INDUST |       |

11. Place of use in counties: MADISON

A22-02204

Page 1

Date: 05/20/88

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RECEIVED

AUG 25 1988

A2202204



12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:  
A22-07391.

14. Remarks:  
RIGHT NO. A22-07391 IS A SEPARATE WELL.

15. Basis of Claim: LICENSE  
Water Right Number: 29600

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake Riv Basin Adjudication." (b.) I/We do \_\_\_\_\_ do not ☒ wish to receive and p a small annual fee for monthly copies of the docket sheet.

Number of attachments: 0

**For Individuals:**

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Laver Squires Date: aug 24, 88  
Date: \_\_\_\_\_

State of Idaho )  
County of Madison ) SS.

Subscribed and sworn (or affirmed) before me this 21<sup>th</sup> day  
of August 19 88

[Signature]  
Notary Public

Seal

Residing at Rexburg ID  
My Commission Expires 6-24-91

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OCT 29 1992

For Organizations:

I do solemnly swear or affirm that I am Plant mgr  
Title  
of Basic American Foods, that I have signed  
Organization  
the foregoing document in the space below as Plant mgr  
Title  
of Rexburg Plant and that the statements contained in  
Organization

the foregoing document are true and correct.

Signature of Authorized Agent Louise Squier  
Title and Organization Plant mgr B.A.F. Date aug 24, 88  
State of Idaho or \_\_\_\_\_ )  
County of Madison ) ss.

Subscribed and sworn (or affirmed) before me this 24th day of  
August, 19 88.

Notary Public Rene Boock  
Residing at Rexburg ID  
My Commission Expires 6-24-91

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OCT 29 1992

9/22/1988

SRBA CLAIMS RECEIVING CHECKLIST

CLAIMANT'S NAME Basic American Foods CLAIM DENT. NO. A22-02204  
DATE RECEIVED 8-25-88 CK # 176249 AMOUNT \$ 509-

4 claims YES NO

1. Is the name and address complete with zip code? ✓ ✓
2. Is a priority date entered? ✓ ✓
- Is the water use exempt from the Permit requirements, or if it is not exempt, has a Permit been approved or a License issued?  
A Permit is required: (1) for groundwater developed after March 25, 1963 (except single family domestic and stockwater wells using less than 13,000 gpd), or (2) for surface water developed after May 20, 1971 (except for instream stockwater). USE CARE IF CLAIM IS RETURNED. REFER TO ADJUDICATION MEMOS # 1 (ADJ. CLAIMS/APPLICATIONS) AND # 9 (REJECTION OF CLAIMS). EXPLAIN IN COMMENTS. ✓
3. (a) Is a source entered? ✓ ✓  
(b) Is a tributary to entered? (if required) N/A ✓
4. Is the legal description of the p.d. sufficient? ✓ ✓
5. Is there a description of the diverting works? ✓ ✓
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. ✓ ✓  
Is the period of use included? ✓ ✓  
Is a quantity claimed for each use? ✓ ✓
7. Is a total quantity claimed entered? ✓ ✓
8. If required is a consumptive use entered? N/A ✓  
Is the consumptive use correct? N/A ✓
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, each household must file a separate claim. See Adjudication Memo # 4. ✓ ✓
10. Is (are) the place(s) of use entered? ✓ ✓
11. Is (are) the county(ies) entered? ✓ ✓
12. Is the ownership of p.u. checked? ✓ ✓
13. Are other water rights listed or "none" checked? ✓ ✓
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) N/A ✓
15. Is the basis of the claim checked? ✓ ✓
16. Is the claim signed by the claimant, and is the signature appropriate? (If an individual is the claimant, has that individual signed the claim, or if an organization is the claimant, is the organization signature block complete?) ✓ ✓
- Has the claim been signed, sealed, and dated by a notary? ✓ ✓
- Is the fee enclosed correct? ✓ ✓
- If this claim is based on an existing water right, has the identification number been entered? N/A ✓
- Should this claim be receipted and data entered? ✓ ✓

Claim checked by: CA

Comments: \_\_\_\_\_

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