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JUN 10 2009

DEPARTMENT OF
WATER RESOURCES

Water Supply Bank No. _____

Water Right No. 45-2748, 45-2749, and 45-7137

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK**

Name of Seller/Lessor Mc Cain Foods USA, Inc. Phone 208-678-9431

Post office address PO Box 10, Burley, ID 83318

1. DESCRIPTION OF WATER RIGHT:

Right evidenced by: **See attached proof reports for decrees 45-2748, 45-2749 and 45-7137**

- a. Decree No. _____ Decreed to _____
(Name)
in case of _____ vs _____
dated _____ in _____ county of _____
(Name of court)
- b. License No. _____ issued by the Idaho Department of Water
Resources.
- c. Permit No. _____ issued by the Idaho Department of Water
Resources.

2. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE: (If the entire right is for sale or lease,
show "all" on line a. below and skip the remainder of part 2.)

- a. Amount of water under right: All cubic feet per second &/or _____ acre-feet per
annum
- b. Point of diversion: _____ 1/4 of _____ 1/4 of Section _____ Township _____ Range
_____, B.M. in _____ County.
Additional points _____

c. Place of use:

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

If the right is for irrigation, show the number of acres for the part of the right to be put into the bank.

Total number of acres _____

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

- a. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of a change of ownership form as required by Section 42-248 or 42-1409(6), Idaho Code, together with required documentation.

Lessor is the owner of records.

- b. Describe the frequency of water use under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years).

The rights were partially decreed in the SRBA May, 2005

- c. If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right.

- d. Describe any other water rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source? If so, describe.

Decrees 45-13970, 45-2747 and 45-2758 will continue to supply ground water to the processing plant for industrial uses.

- e. If the water right is a permit, describe the work accomplished toward developing the right.

- f. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

4. REMARKS:

Implementation of water efficient measures have reduced the processing facility's total ground water needs. Currently, overlapping water right 45-13970, 45-2747 and 45-2758 can satisfy the facility's peak water demand and annual diversion volume requirements for industrial uses.

Lessor requests that (1) the water not be leased out of the bank for potato processing purposes, and (2) leases out of the bank have a maximum term of one year.

Water rights proposed for lease have not been diverted in 2009.

5. SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For sale;

X For lease for a period from June 1, 2009 to indefinite
(Day, month, year) (Day, month, year)

(The lease period may be shown as "indefinite", if the total duration of lease is unknown); or

_____ As a gift to the state of Idaho.

2. Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as the "current rental rate".

Current rental rate _____

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

5/29/09
Date

Jeff D. McKing
Signature

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

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Water Right Report

5/13/2009

WATER RIGHT NO. 45-2748

Owner Type	Name and Address
Current Owner	MC CAIN FOODS USA INC ATTN DAVID B HINES PO BOX 10 BURLEY, ID 83318 (208)678-6723
Attorney	JOSEPHINE P BEEMAN BEEMAN & ASSOCIATES PC 409 W JEFFERSON ST BOISE, ID 83702 (208)331-0950
Original Owner	ORE-IDA FOODS INC PO BOX 10 BOISE, ID 83707 (208)338-6100
Original Owner	MC CAIN FOODSERVICE INC 2275 CABOT DRIVE LISLE, IL 60532-3653 (630)955-0400

Priority Date: 03/06/1961

Basis: Decreed

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
INDUSTRIAL	01/01	12/31	0.6 CFS	309.4 AFA
Total Diversion			0.6 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SWSW Lt 3	Sec. 23	Township 10S	Range 22E	CASSIA County
GROUND WATER	SWSESW Lt 2	Sec. 23	Township 10S	Range 22E	CASSIA County
GROUND WATER	SESESW Lt 2	Sec. 23	Township 10S	Range 22E	CASSIA County
GROUND WATER	SWSWSE Lt 1	Sec. 23	Township 10S	Range 22E	CASSIA County
GROUND WATER	SESWSE Lt 1	Sec. 23	Township 10S	Range 22E	CASSIA County

INDUSTRIAL Use:

Number of other uses: Potato Processing

Place(s) of use:

Place of Use Legal Description: INDUSTRIAL CASSIA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
10S	22E	23	3	SWSW		2	SESW							
			1	SWSE										

Conditions of Approval:

1.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2.	C03	RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
3.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Dates:

Licensed Date:

Decreed Date: 05/06/2005

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 140

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

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IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

5/13/2009

WATER RIGHT NO. 45-2749

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	MC CAIN FOODS USA INC ATTN DAVID B HINES PO BOX 10 BURLEY, ID 83318 (208)678-6723
Attorney	JOSEPHINE P BEEMAN BEEMAN & ASSOCIATES PC 409 W JEFFERSON ST BOISE, ID 83702 (208)331-0950
Original Owner	ORE-IDA FOODS INC PO BOX 10 BOISE, ID 83707 (208)338-6100
Original Owner	MC CAIN FOODSERVICE INC 2275 CABOT DRIVE LISLE, IL 60532-3653 (630)955-0400

Priority Date: 08/13/1965

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
INDUSTRIAL	1/01	12/31	2.85 CFS	734.7 AFA
Total Diversion			2.85 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SWSW Lt 3	Sec. 23	Township 10S	Range 22E	CASSIA County
GROUND WATER	SWSESW Lt 2	Sec. 23	Township 10S	Range 22E	CASSIA County
GROUND WATER	SESESW Lt 2	Sec. 23	Township 10S	Range 22E	CASSIA County
GROUND WATER	SWSWSE Lt 1	Sec. 23	Township 10S	Range 22E	CASSIA County
GROUND WATER	SESWSE Lt 1	Sec. 23	Township 10S	Range 22E	CASSIA County

INDUSTRIAL Use:

Number of other uses: Potato Processing

Place(s) of use:

Place of Use Legal Description: INDUSTRIAL CASSIA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
10S	22E	23	3	SWSW		2	SESW							
			1	SWSE										

Conditions of Approval:

1.	C03	RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Dates:

Licensed Date:

Decreed Date: 05/06/2005

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 140

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

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Water Right Report

5/13/2009

WATER RIGHT NO. 45-7137

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	MC CAIN FOODS USA INC ATTN DAVID B HINES PO BOX 10 BURLEY, ID 83318 (208)678-6723
Attorney	JOSEPHINE P BEEMAN BEEMAN & ASSOCIATES PC 409 W JEFFERSON ST BOISE, ID 83702 (208)331-0950
Original Owner	ORE-IDA FOODS INC PO BOX 10 BOISE, ID 83707 (208)338-6100
Original Owner	MC CAIN FOODSERVICE INC 2275 CABOT DRIVE LISLE, IL 60532-3653 (630)955-0400

Priority Date: 05/24/1973

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
INDUSTRIAL	1/01	12/31	3.43 CFS	884.5 AFA
Total Diversion			3.43 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SWSW Lt 3	Sec. 23	Township 10S	Range 22E	CASSIA County
GROUND WATER	SWSESW Lt 2	Sec. 23	Township 10S	Range 22E	CASSIA County
GROUND WATER	SESESW Lt 2	Sec. 23	Township 10S	Range 22E	CASSIA County
GROUND WATER	SWSWSE Lt 1	Sec. 23	Township 10S	Range 22E	CASSIA County
GROUND WATER	SESWSE Lt 1	Sec. 23	Township 10S	Range 22E	CASSIA County

INDUSTRIAL Use:

Number of other uses: Potato Processing

Place(s) of use:

Place of Use Legal Description: INDUSTRIAL CASSIA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
10S	22E	23	3	SWSW		2	SESW							
			1	SWSE										

Conditions of Approval:

1.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2.	C03	RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
3.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Dates:

Licensed Date:

Decreed Date: 05/13/2005

Permit Proof Due Date: 7/1/1978

Permit Proof Made Date: 1/1/1900

Permit Approved Date: 7/2/1973

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 140

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

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