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Robert E. Bakes, *of counsel*
Morgan W. Richards, *of counsel*

Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

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SEP 08 2005
DEPARTMENT OF
WATER RESOURCES

August 15, 2005

Boise
Idaho Falls
Pocatello
Twin Falls

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AUG 18 2005
WATER RESOURCES
WESTERN REGION

Stephen H. Rae, P.E.
Staff Engineer
Idaho Department of Environmental Quality
1445 North Orchard
Boise, Idaho 83706

Re: Water Right 65-22943 in the Name of Seneca Foods Corporation
MTBR&F File No. 19640.1

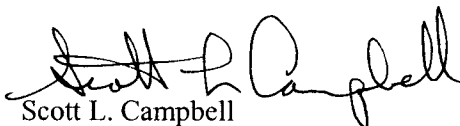
Dear Mr. Rae:

This firm represents the Seneca Foods Corporation with respect to certain water rights issues. I am in receipt of a copy of a letter from you to Sue Kreger with the Idaho Department of Water Resources, dated April 25, 2005, concerning the above-referenced water right. I have enclosed a copy of this letter for your convenience.

Seneca Food's application for permit seeks a permit for water for commercial uses at its canning plant located in Payette, Idaho. The water will be used during the cooling process, in which the water flows through cooling towers to slowly cool the cans. In response to your concerns whether my client's application for permit will create a new public water drinking system, please note that this is not the case. My client has advised me that the well which serves as the point of diversion for water right 65-22943 is not and will not be connected to a public drinking water system. The well is piped directly to the top of the cooling tower and discharges water into the top of the tower. The pipe discharges above the top of the cooling tower at the natural air brake which precludes the well water from coming into contact with the plant's potable water system.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,


Scott L. Campbell

SLC/tmh

cc: Russell Grubb
Lori Graves ✓



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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APR 26 2005

WATER RESOURCES
WESTERN REGION

1445 North Orchard • Boise, Idaho 83706-2239 • (208) 373-0550

Dirk Kempthorne, Governor
Toni Hardesty, Director

April 25, 2005

Sue Kreger
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

RE: Water Right No. 65-22943 in the name of Seneca Foods Corporation

Dear Ms. Kreger:

Thank you for the opportunity to respond to your letter dated April 14, 2005. From our review of the Application for Permit, we could not determine whether this new water source will propose the creation of a new public drinking water system, or will be considered to be a modification to an existing one. Please request that the Applicant review the following conditions to determine if the proposed well will need to be reviewed by this Department.

1. If the proposed water source will be connected to an existing public drinking water system (PDWS), the well site and well design must be approved by this office prior to construction. Per *Idaho Code* § 39-118 and the associated *Idaho Rules for Public Drinking Water Systems*, all components of public water system construction, including wells, must be designed by an Idaho registered professional engineer (engineer).
2. If the proposed source project will serve more than 24 people for more than 60 days per year, it will be considered to be part of a new PDWS. Per *Idaho Code* § 39-118 and the associated *Idaho Rules for Public Drinking Water Systems*, all components of PDWS construction, including wells, must be designed by an Idaho registered professional engineer (engineer) and approved by the Idaho Department of Environmental Quality (IDEQ) prior to construction.
2. All public water system facilities must have an engineering report and plans and specifications prepared by a registered professional engineer and submitted to DEQ for review and approval prior to construction. The engineering evaluation must cover physical factors such as source selection and construction, structures, pipelines, reservoirs, and related appurtenances. The evaluation must also cover non-structural factors such as system ownership, the ability of the initial owner to finance construction, and the ability of the final owner to finance, operate, and maintain the completed system.
3. Both the well site and plans and specifications must be approved prior to drilling. Well houses must also have construction plans and specifications approved prior to construction. We will also need to see the Permit to Appropriate Water, or an equivalent document, from the Idaho Department of Water Resources. If there are well known concerns about groundwater in that particular area, the client will be advised at that time.

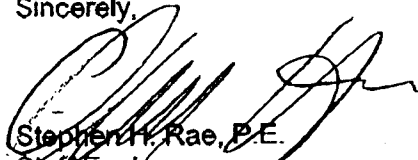
Sue Kreger
Idaho Department of Water Resources
April 25, 2005
Page 2

4. Individual service lines should be reviewed by the State Plumbing Bureau and/or the local building department.
5. The proposed well will be used in food processing. If the District Health Department determines that this source will need to an approved water system, as specified in the Unicode, the conditions presented above will apply to this project.

We recommend that you contact our office directly for each new water system. The following comments apply to new Public Drinking Water System proposed for this project.

If you have any questions, please contact me at (208) 373-0349, or via e-mail at srae@deq.idaho.gov.

Sincerely,



Stephen H. Rae, P.E.
Staff Engineer

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cc: Charles W. Ariss, P.E., Regional Manager-Engineering, Boise Regional Office
File 24, Reading File