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DEPARTMENT OF
WATER RESOURCES

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April 8, 2005

Karl Dreher, Director
Idaho Department of Water Resources
P. O. Box 83720
Boise, ID 83720-0098

Re: Water Resource Coalition Notice of Intent to File ESPA Mitigation Plan

Dear Karl:

The Water Resource Coalition encloses its Notice of Intent to File an Application for Approval of a Mitigation Plan (Notice) for ground water withdrawals from the Eastern Snake Plain Aquifer (ESPA). The members of the Water Resource Coalition submitting the Notice are the City of Pocatello, Basic American Foods, Inc., Con Agra/Lamb Weston and the J.R. Simplot Company (collectively the "Applicants"). A copy of this letter and the enclosed Notice are being provided to the service list in the following IDWR proceedings:

1. In the Matter of Distribution of water to various water rights held by or for the benefit of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company (Surface Water Coalition Water Call).

2. In the Matter of Distribution of water to water rights 36-15501, 36-02551, and 36-07694 (Rangen Call).

The Applicants intend to file the Plan within a reasonable time after the IDWR Director issues an order curtailing all or portions of the Applicants' rights to divert and use ESPA ground water.

Sincerely,

BEEMAN & ASSOCIATES, P.C.

Jo Beeman

Josephine P. Beeman

Enclosure
cc: Service list for Surface Water Coalition Water Call (w/ enc.)
Service list for Rangen Call (w/ enc.)
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BEFORE THE DIRECTOR
OF THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

RECEIVED
APR 18 2005
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE APPLICATION OF THE CITY OF POCATELLO, BASIC AMERICAN FOODS, INC., CON AGRA/LAMB WESTON, AND THE J. R. SIMPLOT COMPANY FOR APPROVAL OF A MITIGATION PLAN FOR GROUND WATER WITHDRAWALS FROM THE EASTERN SNAKE PLAIN AQUIFER	)	**NOTICE OF INTENT TO FILE APPLICATION FOR APPROVAL OF A MITIGATION PLAN**

COME NOW the City of Pocatello ("Pocatello"), Basic American Foods, Inc. ("Basic American"), Con Agra/Lamb Weston ("Lamb Weston"), and the J.R. Simplot Company ("Simplot") (collectively the "Applicants"), and hereby submit to the Idaho Department of Water Resources ("IDWR") this Notice of Intent ("Notice") to file an Application for Approval of a Mitigation Plan ("Plan"), individually or collectively, in accordance with the constitutional, common law, and statutory principles of the prior appropriation doctrine and the Rules for Conjunctive Management of Surface and Ground Water Resources, IDAPA 37.03.11.

1. **Names, Addresses and Telephone Numbers of Applicants:**

Dean Tranmer
City of Pocatello
P. O. Box 4169
Pocatello, ID 83205
(208) 234-6149

Robert G. Bloom
Con Agra/Lamb Weston
P. O. Box 489
American Falls, ID 83211
(208) 226-2301 x. 63400

Bruce Wright
Basic American Foods, Inc.
415 Collins Road
Blackfoot, ID 83221
(208) 785-8590

Terry T. Uhling
J. R. Simplot Company
P. O. Box 27
Boise, ID 83707
(208) 389-7317

2. **Notice of Appearance:**

Notice is hereby given that Josephine P. Beeman will be acting as attorney at law on behalf of the Applicants. All notices required by law to be mailed by the Director to the Applicants should be mailed to the address listed below:

Josephine P. Beeman
Beeman & Associates, P.C.
409 West Jefferson Street
Boise, Idaho 83702
(202) 331-0950
Fax - (208) 331-0954

3. Introduction:

The Applicants each divert and use ground water from the Eastern Snake Plain Aquifer ("ESPA"). Pocatello provides municipal water service to an area within the Portneuf River basin, a tributary of the Snake River. A portion of Pocatello's water supply is derived from wells that divert from the ESPA, and only these wells will be included in the Plan. Basic American, Lamb Weston and Simplot each operate potato processing and other commercial/industrial facilities within the Eastern Snake River basin generally between Heyburn and Rexburg.

By submitting this Notice of Intent to File a Mitigation Plan, the Applicants do not concede that material injury to senior surface water rights has occurred, is occurring, or has been demonstrated.

4. Purpose of Mitigation Plan:

The purpose of the Plan will be to provide protection and certainty for existing and beneficial uses of ESPA ground water as described in the Plan.

5. Ground Water Uses, and Mitigation Requirements:

5.1 Ground Water Uses – The Plan will cover uses of ESPA ground water by the Applicants in association with the Applicants' commercial, municipal, and industrial facilities and operations.

5.2 Mitigation Requirements – The Applicants' will provide mitigation if and when the IDWR Director issues an order curtailing all or portions of the Applicant's right to divert and use ESPA groundwater.

6. Mitigation Sources:

6.1 Replacement Water Sources - The Applicants will meet the mitigation requirements by making available replacement water from various water sources.

6.2 Non-Water Mitigation - In lieu of replacement water sources, Applicants may provide mitigation through annual payments to IDWR.

6.3 Other Mitigation – The Applicants may provide other mitigation that is acceptable to the IDWR.

7. Other:

7.1 Reporting Requirements - Applicants shall submit a report with IDWR that describes water uses and compliance with the Plan.

7.2 Modifications to the Plan - Applicants may modify the mitigation with the approval of the IDWR Director.

8. Filing of Mitigation Plan Application:

Applicants will file the Plan within a reasonable time period after the Director issues his Order. The application will describe the various elements of the Plan including, but not limited to, (a) the ground water uses and ground water rights of the Applicants affected by the Order, (b) conditions under which the Applicants will provide mitigation, (c) the sources of mitigation, (d) proposed reporting requirements and (e) procedures for modifying the Plan.

9. Wherefore, the Applicants pray that the Director of the Department of Water Resources of the State of Idaho take the following actions:

9.1 Find that the Applicants be afforded an opportunity to file their own mitigation plan without requiring that the Applicants join a Ground Water District for mitigation purposes.

9.2 Find that the Applicants be allowed to continue diverting ground water during such reasonable time period as is required to submit their mitigation plan(s).

9.3 Find that the Applicants' mitigation plan application be afforded full consideration of its adequacy in accordance with Idaho Law prior to the Director curtailing any ground water diversions by the Applicants.

Respectfully submitted this 8th day of April 2005.

BEEMAN & ASSOCIATES, P.C.

By: Josephine P. Beeman

Josephine P. Beeman

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