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Attorney for McCain Foods USA, Inc.

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**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**

**Docket No. CM-DC-2010-001
MCCAIN FOODS USA, INC.'S
REQUEST FOR HEARING AND
OBJECTION**

REQUEST FOR HEARING

Pursuant to Idaho Code § 42-1701(A)(3), McCain Foods USA, Inc.'s ("McCain") requests a hearing on the Department's *Fifth Amended Methodology Order Regarding Methodology For Determining Material Injury to Reasonable In-Season Demand And Reasonable Carryover and Final Order Regarding April 2023 Forecast Supply* ("2023 As-Applied Order") both issued April 21, 2023. McCain objects to the *Fifth Amended Order* and the 2023 As-Applied Order's implementation this upcoming season for the reasons set forth below

which it also identifies as issues for hearing. McCain reserves the right to revise the issues as more information becomes available.

Among the issues the McCain has identified for hearing are:

- a) IDWR's new reliance on transient modeling;
- b) IDWR's failure to consider the Twin Falls Canal Company's increase in diversions over the last twenty years;
- d) IDWR's failure to consider changes in the efficiency of the SWC's operations;
- e) IDWR's failure to consider all sources of supply available to the SWC;
- f) IDWR's use of 2018 as the new baseline year; and
- g) IDWR's violation of McCain's due process rights by giving less than 10 business days to provide a mitigation solution after a wholesale change in methodology and in a non-drought year, by setting the hearing without regard to the time required for discovery and without consideration of the existing obligations of the parties, their legal representatives and consultants.

Submitted this 28th day of April, 2023

MCHUGH BROMLEY, PLLC

/s/ Candice M. McHugh

Candice M. McHugh

Attorney for McCain

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of April, 2023, the above and foregoing, was served by email to the following:

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