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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
STATEMENT OF ISSUES**

Pursuant to the oral order at the Prehearing conference in this matter held on April 28, 2023, by and through the undersigned attorney, McCain Foods USA, Inc. (“McCain”) files this Statement of Issue.

STATEMENT OF ISSUES FOR HEARING

McCain identifies the following issues for hearing:

- 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 not providing it actual notice of the order and requisite deadlines, and even if it was deemed that it was given "notice" because it shared an attorney with the Coalition of Cities, by giving it less than 10 business days to provide a mitigation solution after a wholesale change in methodology, by depriving it of the ability to develop its own mitigation plan to protect its water rights, by requiring compliance with a deadline to avoid curtailment without actual notice of the deadline 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 5th day of May, 2023

MCHUGH BROMLEY, PLLC

/s/ Candice M. McHugh

Candice M. McHugh

Attorney for McCain

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of May, 2023, the above and foregoing, was served by email to the following:

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