



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

July 10, 2008

Hon. John Melanson
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

RE: Subcase No. 63-7218 (J.R. Simplot Co.)

Dear Judge Melanson:

The Director's Report for Basin 63, Part 3 was filed with the SRBA Court on December 19, 2006. The deadline to file objections was June 20, 2007. Contained in the Director's Report for Basin 63, Part 3 was the recommendation for water right number 63-7218. No objections were filed to this water right recommendation and a partial decree has not yet been issued.

It has recently come to the attention of the Department that the water right recommendation contained clerical errors, wherein the Department recommended the diversion volume for the industrial purpose of use as a year around use. This was in error, as this water right was licensed with a four-month period of use for the industrial component of this right. A copy of the license is attached hereto for reference.

I am also attaching an Amended Director's Report wherein the changes concerning the annual diversion rate are identified in underline/strikeout format for ease of identification. Please set the standard objection and response deadlines for this Amended Director's Report.

I am sending a copy of this letter to counsel for the claimant, so that he is aware of this error.

If you should have any questions or comments, please feel free to contact me at (208) 287-4813.

Sincerely,

A handwritten signature in black ink that reads "Nick Spencer".

Nicholas B. Spencer
Deputy Attorney General, IDWR

Enclosures

cc: Terry Uhling
Vicky Music

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 63-7218 Priority April 18, 1969 Amount 3.40 cfs

THIS IS TO CERTIFY, that CARNATION COMPANY

of Los Angeles, California, has complied with the terms and conditions of Permit No. 63-7218 issued pursuant to Application for Permit dated April 18, 1969, and has submitted proof to the Department of Water Resources on June 3, 1974, that he has applied water to a beneficial use; an examination by the Department indicates that the works have a capacity for the diversion of 4.0 cfs of water from a ground water source, tributary to _____, and that the permit holder has applied to a beneficial use and established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Fire Protection	from <u>Jan. 1</u> to <u>Dec. 31</u>	at <u>3.40</u> cfs and	<u>n/a</u>
Industrial	from <u>Dec. 1</u> to <u>March 31</u>	at <u>2.00</u> cfs and	<u>n/a</u>
Irrigation	from <u>May 31</u> to <u>August 15</u> (both dates inclusive)	at <u>0.20</u> cfs and	<u>22.5 acre feet or 4.5 af per acre</u>

Subject, however, to the condition that no more than 3.40 cfs of water be diverted at any one time, and that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed 22.5 acre feet per year/said waters to be diverted within the NW1/4NW1/4 Sec. 8

Twp. 3 N, Rge. 2-W, B. M. in the County of Canyon

Description and location of place of use:

Twp.	Range	Sec.	NEW				NW1/4				SW1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
3 N	2 W	8					X								Five

Total number of acres irrigated Five

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 29th day of August, 19 75.

For the Director, by A. KENNETH DUNN,
Administrator

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-7218

NAME AND ADDRESS:

J R SIMPLOT CO
C/O TERRY UHLING
999 MAIN ST STE 1300
PO BOX 27
BOISE ID 83707

SOURCE: Source:
GROUND WATER

Tributary:

QUANTITY: 3.400 CFS
506.500 AFY

~~1,188.500 AFY~~

Rights 63-7218, 63-10012, and 63-10066 when combined shall not exceed a total diversion rate of 6.4 cfs.

Rights 63-7218, and 63-10066 when combined shall not exceed a total annual maximum diversion volume of 1470.5 af.

PRIORITY DATE: 04/18/1969

POINT OF DIVERSION:

T03N R02W S8 NWNW
Within CANYON County

T03N R02W S8 NWNW
Within CANYON County

T03N R02W S8 NESW
Within CANYON County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

05/31 08/15

0.200 CFS 22.50 AFY

INDUSTRIAL

12/01 03/31

2.000 CFS 506.50 AFY

2.000 CFS ~~1,166.00 AFY~~

FIRE PROTECTION

01/01 12/31

3.400 CFS

Industrial use is for a potato processing plant.

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before May 31 and after August 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION within CANYON County
 T03N R02W S08 NWNW 5.0

 INDUSTRIAL within CANYON County
 T03N R02W S08 NWNW
 T03N R02W S08 NESW

 FIRE PROTECTION within CANYON County
 T03N R02W S08 NWNW
 T03N R02W S08 NESW

5 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License