



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

February 23, 2009

Vic Conrad
J.R. Simplot Company
P.O. Box 27
Boise, ID 83707

Re: SRBA Subcase Nos 63-2239 et al (Simplot)

Dear Vic:

I am enclosing a Standard Form 5 ("SF5") for each of the above referenced subcases. Please review the documents, and if they are acceptable, please have the documents signed, the recommendations initialed and file the original SF5s with the SRBA Court along with copies to the parties. If you prefer, you can return the SF5s to me, and I will file them with the Court.

If you should have any questions or comments, please don't hesitate to contact me at 287-4811.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Williams".

Ray Williams
Paralegal

Enclosures

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	Subcase No. 63-5038
	)	<i>Previously Disallowed</i>
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
_____	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/OBJECTOR:

J.R. Simplot Company

Terry T. Uhling Date
Attorney for Claimant/Objector

STANDARD FORM 5 – 63-5038

IDWR Concurrence:

Kay Walker 2-18-09
Kay Walker Date
Senior Water Resource Agent


Nicholas B. Spencer Date 2-17-09
 Deputy Attorney General
 Attorney for IDWR

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

RIGHT NUMBER: 63-5038

NAME AND ADDRESS:

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

SOURCE:

Source:

Tributary:

GROUND WATER

QUANTITY:

1.340 CFS

877.100 AFY

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

The rights listed below are limited to a total combined diversion rate of 12.48 cfs and a total combined annual diversion volume of 5779.7 AF. Combined Right Nos.: 63-4968, 63-5036, 63-5038, 63-5039, 63-2731, 63-5037, 63-21537, 63-21541 and 63-7678.

PRIORITY DATE: 07/20/1944

POINT OF DIVERSION:

T04N R03W S18 Lot 8 SWSW
Within CANYON County

T04N R03W S18 SESW
Within CANYON County

T04N R03W S18 NWSE
Within CANYON County

T04N R03W S19 SENE
Within CANYON County

T04N R03W S19 NESE
Within CANYON County

T04N R03W S19 NWSE
Within CANYON County

T04N R03W S20 NESW
Within CANYON County

T04N R03W S20 NWSW
Within CANYON County

T04N R03W S20 NWSW
Within CANYON County

NBS
kw

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

03/01 11/15

1.340 CFS

301.50 AFY

INDUSTRIAL

01/01 12/31

1.340 CFS

575.60 AFY

Industrial use is for food processing plant.

SF5 Right No. 63-5038

PLACE OF USE: IRRIGATION within CANYON County

T04N R03W S07 Lot 6 SWSW 7.0
T04N R03W S07 Lot 7 SESW 3.0
T04N R03W S17 Lot 7 NESW 9.0
T04N R03W S17 Lot 6 NWSW 5.0
T04N R03W S17 SWSW 21.0
T04N R03W S17 SESW 34.0
T04N R03W S18 Lot 3 NWNE 14.0
T04N R03W S18 Lot 4 NENW 31.0
T04N R03W S18 Lot 5 NWNW 35.0
T04N R03W S18 Lot 6 SWNW 29.0
T04N R03W S18 SENW 33.0
T04N R03W S18 NESW 3.0
T04N R03W S18 NESE 1.0
T04N R03W S18 NWSE 12.0
T04N R03W S18 SESE 26.0
T04N R03W S19 NENE 30.0
T04N R03W S19 NENW 24.0
T04N R03W S19 Lot 1 NWNW 25.0
T04N R03W S19 Lot 2 SWNW 31.0
T04N R03W S19 SENW 25.0
T04N R03W S20 NENW 36.0
T04N R03W S20 NWNW 20.0
T04N R03W S20 SWNW 25.0
T04N R03W S20 SENW 32.0
T04N R04W S12 NESE 1.0
T04N R04W S12 Lot 10 NESE 2.0
T04N R04W S12 SESE 1.0
T04N R04W S12 Lot 10 SESE 31.0
T04N R04W S13 NENE 34.0
T04N R04W S13 NWNE 35.0
T04N R04W S13 SWNE 31.0
T04N R04W S13 SENE 33.0
T04N R04W S13 SWNW 30.0
T04N R04W S13 SENW 26.0
T04N R04W S13 NESW 34.0
T04N R04W S13 NWSW 28.0
T04N R04W S13 SWSW 27.0
T04N R04W S13 SESW 30.0
T04N R04W S13 SWSE 33.0
T04N R04W S13 SESE 30.0
T04N R04W S24 NENE 7.0
T04N R04W S24 SENE 9.0

NBS
kw

INDUSTRIAL within CANYON County

T04N R03W S07 Lot 6 SWSW
T04N R03W S07 Lot 7 SESW
T04N R03W S17 Lot 7 NESW
T04N R03W S17 Lot 6 NWSW
T04N R03W S17 SWSW
T04N R03W S17 SESW
T04N R03W S18 Lot 3 NWNE

SF5 Right No. 63-5038

T04N R03W S18 Lot 4 NENW
T04N R03W S18 Lot 5 NWNW
T04N R03W S18 Lot 6 SWNW
T04N R03W S18 SENW
T04N R03W S18 NESW
T04N R03W S18 NESE
T04N R03W S18 NWSE
T04N R03W S18 SESE
T04N R03W S19 NENE
T04N R03W S19 NWNE
T04N R03W S19 SWNE
T04N R03W S19 SENE
T04N R03W S19 NENW
T04N R03W S19 Lot 1 NWNW
T04N R03W S19 Lot 2 SWNW
T04N R03W S19 SENW
T04N R03W S19 NESE
T04N R03W S19 NWSE
T04N R03W S20 NENW
T04N R03W S20 NWNW
T04N R03W S20 SWNW
T04N R03W S20 SENW
T04N R03W S20 NWSW
T04N R04W S12 NESE
T04N R04W S12 Lot 10 NESE
T04N R04W S12 SESE
T04N R04W S12 Lot 10 SESE
T04N R04W S13 NENE
T04N R04W S13 NWNE
T04N R04W S13 SWNE
T04N R04W S13 SENE
T04N R04W S13 SWNW
T04N R04W S13 SENW
T04N R04W S13 NESW
T04N R04W S13 NWSW
T04N R04W S13 SWSW
T04N R04W S13 SESW
T04N R04W S13 SWSE
T04N R04W S13 SESE
T04N R04W S24 NENE
T04N R04W S24 NWNE
T04N R04W S24 SWNE
T04N R04W S24 SENE

933 ACRES TOTAL

NBS
kw

This right is limited to the irrigation of 67 acres within the place of use described above in a single irrigation season.

The place of industrial use authorized by this right includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this right for industrial purposes shall not be used for irrigation unless the water is first used in the industrial facility as authorized by this water right.

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.

NBS
kw

~~No beneficial use found.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Use of this right is combined with water from Pioneer Dixie Ditch Co. The following rights are diverted through points of diversion described above: 63-4968, 63-5036, 63-5039, 63-2731, 63-5037, 63-21537, 63-21541 and 63-7678.

~~No beneficial use found. This is included for a claim based on beneficial use that is proposed to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.~~

CERTIFICATE OF MAILING

I certify that on _____, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

2. Copies to:

J.R. SIMPLOT COMPANY
Represented by:
GRAY A. YOUNG
J R SIMPLOT COMPANY
999 MAIN ST. STE. 1300
PO BOX 27
BOISE, ID 83707-0027

J.R. SIMPLOT COMPANY
Represented by:
TERRY T. UHLING
J R SIMPLOT COMPANY
999 MAIN S.T STE. 1300
PO BOX 27
BOISE, ID 83707-0027

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing the form