

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

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. 63-21537            |
|                | ) | <i>Previously Disallowed</i>    |
| Case No. 39576 | ) |                                 |
|                | ) | <b>STANDARD FORM 5</b>          |
|                | ) |                                 |
|                | ) | <b>STIPULATED ELEMENTS OF A</b> |
|                | ) | <b>WATER RIGHT</b>              |

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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.**

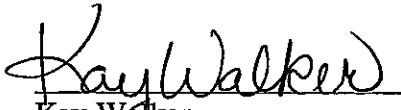
**CLAIMANT/OBJECTOR:**  
Simplot Livestock Company

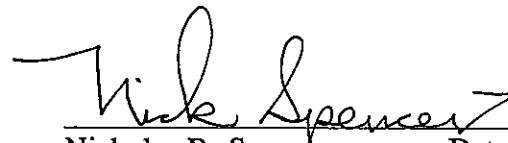
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Terry T. Uhling                      Date  
Attorney for Claimant/Objector

STANDARD FORM 5 – 63-21537

**IDWR Concurrence:**

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

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

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

RIGHT NUMBER: 63-21537

NAME AND ADDRESS:

SIMPLIST LIVESTOCK CO  
PO BOX 27  
BOISE ID 83707

SOURCE:

Source:

Tributary:

GROUND WATER

QUANTITY:

0.670 CFS87.100 AFY

The rights listed below are limited to a total combined diversion rate of 12.48 cfs and to 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: 06/01/1949

POINT OF DIVERSION:

T04N R03W S18 Lot 8 SWSW  
Within CANYON CountyT04N R03W S18 SESW  
Within CANYON CountyT04N R03W S18 NWSE  
Within CANYON CountyT04N R03W S19 SENE  
Within CANYON CountyT04N R03W S19 NESE  
Within CANYON CountyT04N R03W S19 NWSE  
Within CANYON CountyT04N R03W S20 NESW  
Within CANYON CountyT04N R03W S20 NWSW  
Within CANYON CountyT04N R03W S20 NWSW  
Within CANYON CountyPURPOSE AND  
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

STOCKWATER01/01 12/310.670 CFS 85.10 AFYCOMMERCIAL01/01 12/310.040 CFS 2.00 AFYCommercial use is for offices.NBS  
Kew

PLACE OF USE: STOCKWATER within CANYON County

T04N R03W S18 NESW  
T04N R03W S18 NWSW  
T04N R03W S18 SWSW  
T04N R03W S18 SESW  
T04N R03W S18 NESE  
T04N R03W S18 NWSE  
T04N R03W S18 SWSE  
T04N R03W S18 SESE  
T04N R03W S19 NENE  
T04N R03W S19 NWNE  
T04N R03W S19 SWNE  
T04N R03W S19 SENE  
T04N R04W S13 SESW  
T04N R04W S13 NESE  
T04N R04W S13 NWSE  
T04N R04W S13 SWSE  
T04N R04W S13 SESE  
T04N R04W S24 NENE  
T04N R04W S24 NWNE  
T04N R04W S24 SWNE  
T04N R04W S24 SENE

NBS  
kw

COMMERCIAL within CANYON County  
T04N R03W S19 SWNE  
T04N R03W S19 SENE

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(5), Idaho Code.

~~No beneficial use found.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

The following rights are diverted through points of diversion described above: 63-4968, 63-5036, 63-5038, 63-5039, 63-2731, 63-5037, 63-21537, 63-21541 and 63-7678. Stockwater use is for 6350 range cattle.

~~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:

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

SIMPLOT LIVESTOCK 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

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Signature of person or attorney mailing the form