

DISTRICT COURT - SREB
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 17 2009

By _____ Clerk

Deputy Clerk

PLACE OF USE (continued)

	SWSW	SESW
	SWSE	SESE
S24	NENE	NWNE
	SWNE	SENE

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.

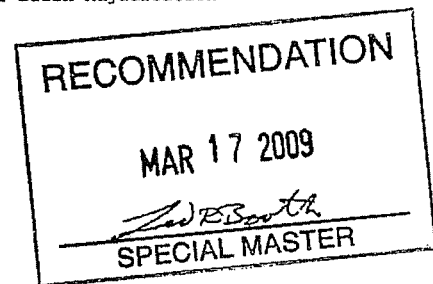
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



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

RIGHT NUMBER: 63-4968

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:

0.670 CFS438.600 AFY

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:

01/01/1942

POINT OF DIVERSION:

T04N R03W S18 Lot 8 SWSW
Within CANYON County

-

T04N 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:

INDUSTRIAL01/01 12/310.670 CFS438.60 AFYIndustrial use is for food processing plant.

SF5 Right No. 63-4968

PLACE OF USE: 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
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

SF5 Right No. 63-4968

T04N R04W S24 SWNE

T04N R04W S24 SENE

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 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.

~~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.

~~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.~~

01/27/2009

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-4968

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

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.670 CFS
438.600 AFY

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: 01/01/1942

POINT OF DIVERSION:

T04N R03W S18 SWSW Lot 8 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

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
INDUSTRIAL	01/01 12/31	0.670 CFS 438.60 AFY
Industrial use is for food processing plant.		

PLACE OF USE: INDUSTRIAL in 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	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

01/27/2009

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

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	SENE	T04N R03W S19	NESE
T04N R03W S19	NWSE	T04N R03W S20	NENW
T04N R03W S20	NWNW	T04N R03W S20	SWNW
T04N R03W S20	SENE	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	SENE
T04N R04W S13	NESW	T04N R04W S13	NWSW
T04N R04W S13	SWSW	T04N R04W S13	SESE
T04N R04W S13	SWSE	T04N R04W S13	SESE
T04N R04W S24	NENE	T04N R04W S24	NWNE
T04N R04W S24	SWNE	T04N R04W S24	SENE

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 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.

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.

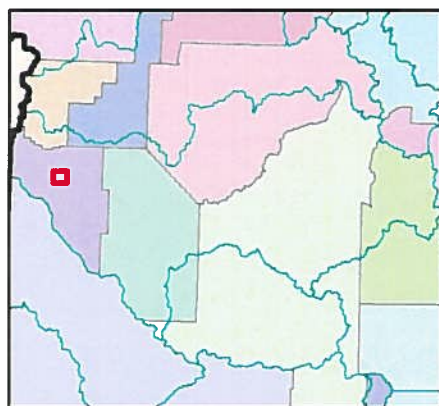


SRBA Recommendation
63-4968
(INDUSTRIAL)

Idaho Department of Water Resources

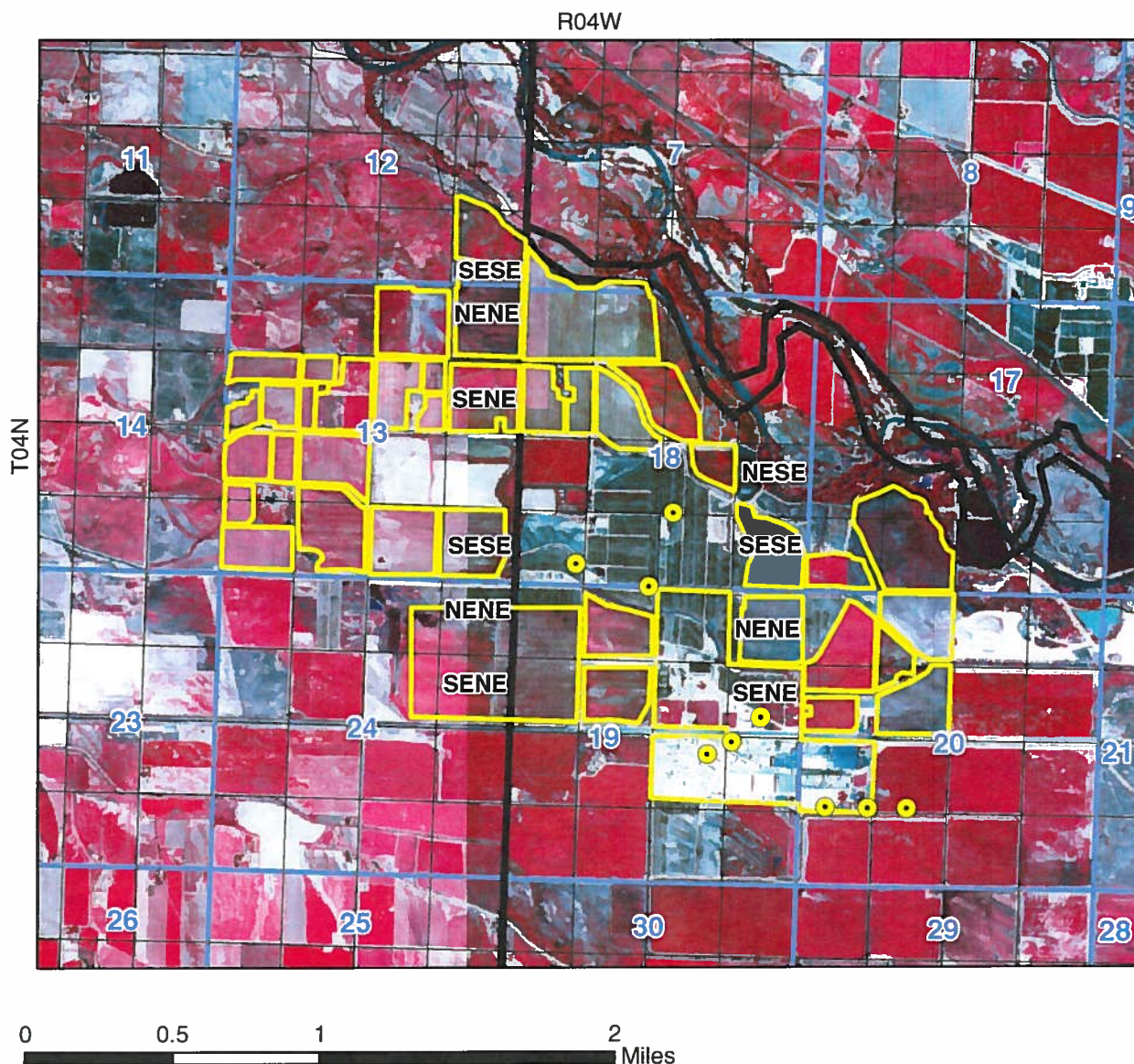
Legend

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Canyon County
IDWR Basin 63

Prepared by Kay Walker
On January 27, 2009
1987/88 Aerial Photography



Walker, Kay

From: Conrad, Vic E [Vic.Conrad@simplot.com]
Sent: Thursday, January 15, 2009 12:35 PM
To: Walker, Kay
Cc: Young, Gray A
Subject: RE: Simplot Industrial Land Application System Site Plan; March 1987.

Thank you Kay. I am still waiting on the information relating to the stock wells we discussed that were used to supply the feedlot (and were connected to the overall system). I hope to have a definitive answer soon.

From: Walker, Kay [mailto:Kay.Walker@idwr.idaho.gov]
Sent: Thursday, January 15, 2009 12:25 PM
To: Conrad, Vic E
Cc: Walker, Kay
Subject: RE: Simplot Industrial Land Application System Site Plan; March 1987.

Vic,
With the information you submitted, I can add the identified places of use under the industrial land application. I will use the map attachment as a guide for the place of use in NE1/4, Section 24. I will get the revisions made to all the industrial rights prior to preparing SF5's.
Kay

From: Conrad, Vic E [mailto:Vic.Conrad@simplot.com]
Sent: Thursday, January 15, 2009 9:41 AM
To: Walker, Kay
Cc: Young, Gray A
Subject: Simplot Industrial Land Application System Site Plan; March 1987.

Kay,
Attached is a copy of two pages from the Operations Plan that Simplot was required to submit to the IDEQ in March of 1987. The map attached is from the Plan which shows the areas onto which Simplot land applied its industrial effluent. These are only two sheets from the Plan; and I can make the entire book available for you to review should you need it.

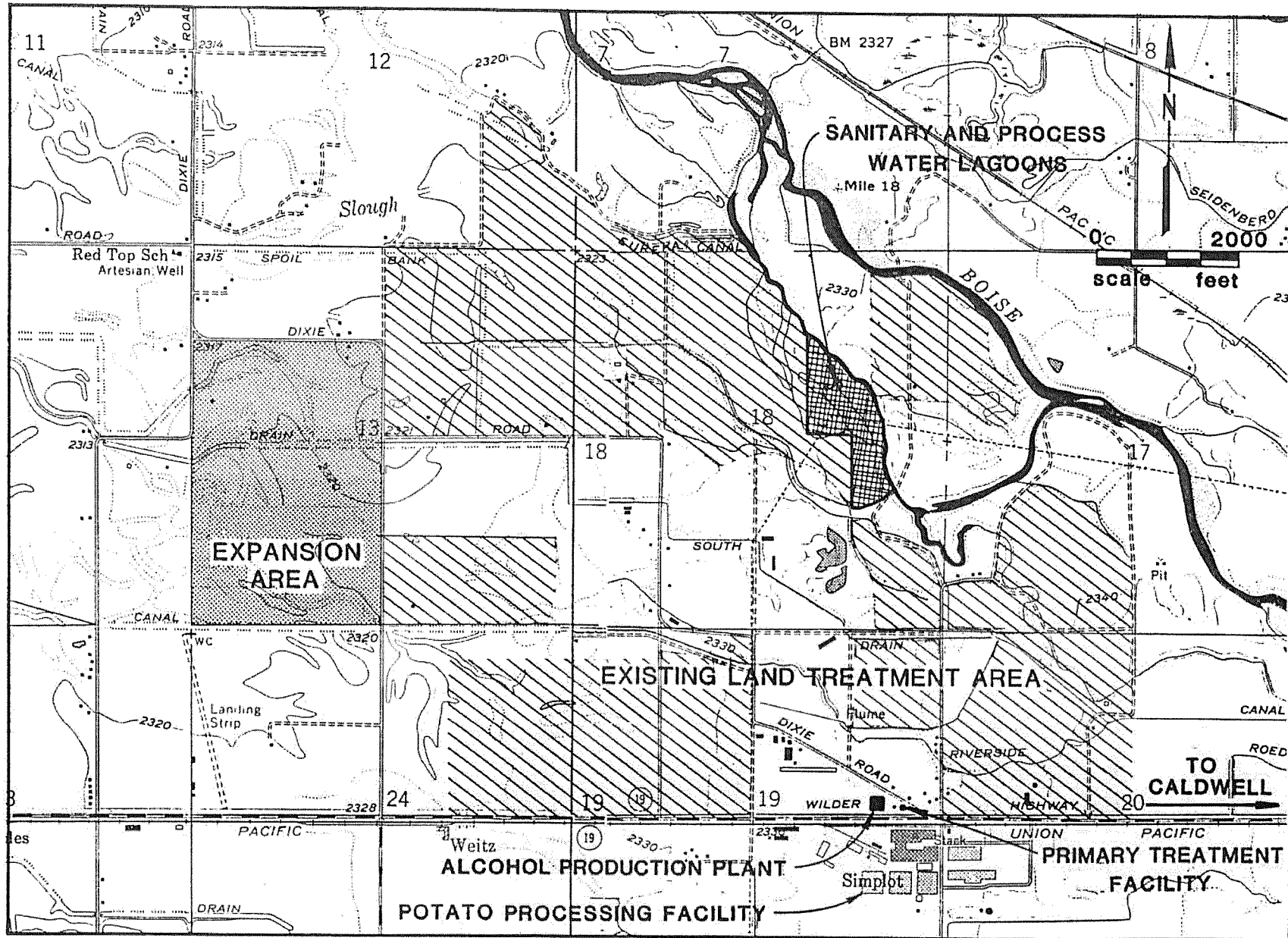
Note that the SE1/4NW1/4 of Section 13 T.4N R.4W is included in the "Expansion Area". In the spring of 1987 Simplot added this area to its land application system after acquiring this parcel.

Also note the area shaded in the NE1/4 of Section 24 T.4N R.4W. This area was an existing part of the land application system in 1987 and remains part of the system today.

AN
OPERATIONS PLAN
FOR THE
J.R. SIMPLOT COMPANY
LAND APPLICATION FACILITY
AT
CALDWELL, IDAHO

MARCH 1987

PREPARED BY
JAMES M. MONTGOMERY, CONSULTING ENGINEERS, INC.
161 MALLARD DRIVE
BOISE, IDAHO 83706



SITE MAP OF THE
CALDWELL LAND APPLICATION FACILITY
FIGURE 2

12/12/2008

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-4968

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

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.670 CFS
438.600 AFY

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PERIOD OF USE:

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T04N R03W S18 Lot 3 NWNE	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

12/12/2008

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

T04N R03W S19	SENE	T04N R03W S19	NESE
T04N R03W S19	NWSE	T04N R03W S20	NENW
T04N R03W S20	NWNW	T04N R03W S20	SWNW
T04N R03W S20	SENE	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	SENE
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	SENE

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 shall not be used for irrigation unless the water is first used in the industrial facility as authorized by this water right.

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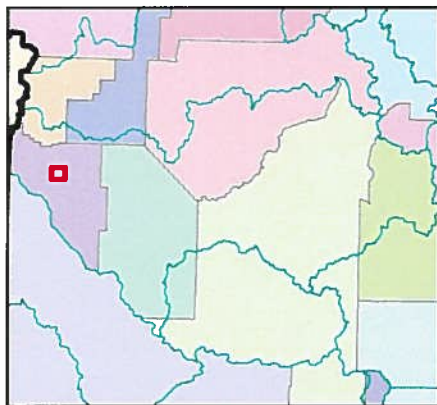


Idaho Department of Water Resources

SRBA Recommendation
63-4968
(INDUSTRIAL)

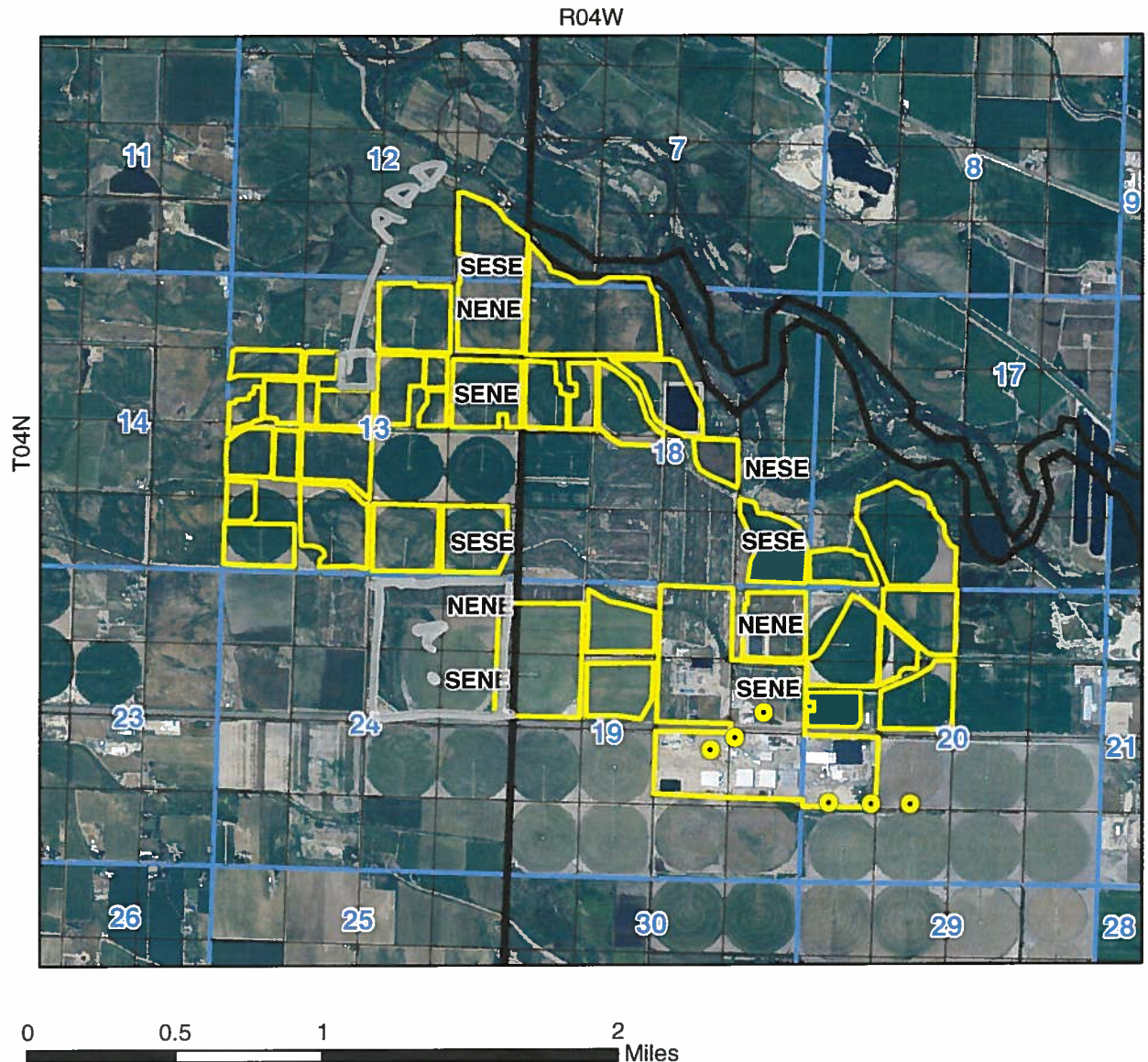
Legend

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Canyon County
IDWR Basin 63

Prepared by Kay Walker
On October 01, 2008
2004 Aerial Photography



1/8/2009

[illegible]

Industrial

1987 - Carter determined capacity of system = 9.36 cfs - (see exam) 63-10034

8.83 cfs needed for plant to get $\approx$ 5.5 mgd discharge (see memo of 7-17-2008)

by priority date

8.83 cfs
- 0.67 $\rightarrow$ 63-4968 industrial

8.16

2.67 $\rightarrow$ 63-5036 industrial & irrigation (933 ac) PPU

5.49

1.34 $\rightarrow$ 63-5038 industrial & irrigation (933 ac) PPU

4.15

1.78 $\rightarrow$ 63-5039 industrial & irrigation (933 ac) PPU

2.37

2.37 $\rightarrow$ 63-2731 industrial

MEMORANDUM

TO: SIMPLOT FILES

FROM: KAY WALKER 

RE: ADDITIONAL INFORMATION

Date: September 30, 2008

.....

See file 63-5036 for additional information obtained during field examination and prior to recommendations being made.

RECEIVED

MAY 06 2008

DEPARTMENT OF
WATER RESOURCES

2008 MAY 05 PM 01:16
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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	)	ORDER SETTING SUBCASE(S)
	)	FOR INITIAL HEARING
Case No. 39576	)	
_____	)	SUBCASE NOS: SEE ATTACHED EXHIBIT A

The Initial Hearing for this subcase will be held before
Special Master THEODORE R. BOOTH

THURSDAY, JUNE 05, 2008 at 02:45 PM (MT)
NAMPA
120 - 9TH AVE S
NAMPA, ID

ATTENDANCE IS MANDATORY. All parties are required to
attend and must have full settlement authority.

At the Initial Hearing you will have an opportunity
to meet with a representative of the Idaho Department of
Water Resources (IDWR) and/or the objector in an attempt
to reconcile any difference between the claim and the
Director's Report. Bring any and all information you
believe is relevant to your claim and/or objection. If
the claim cannot be reconciled at the Initial Hearing,
the court will set the subcase(s) for trial within 45
days of the Initial Hearing. IF YOU INTEND TO AMEND YOUR
CLAIM, YOU MUST DO SO AT OR BEFORE THE INITIAL HEARING.

Settlement documents must be filed with the court by
JUNE 02, 2008 or hearing will not be vacated.

IT IS SO ORDERED.

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

(continued)

Dated: MAY 05, 2008

/S/ THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the ORDER SETTING
SUBCASE(S) FOR INITIAL HEARING was mailed on MAY 05, 2008 _____,
with sufficient first-class postage to the following:

J R SIMPLOT CO
C/O RON GRAVES
999 MAIN ST STE 1300
PO BOX 27
BOISE, ID 83707
Phone: 208-336-2110

J R SIMPLOT CO
SIMPLOT LIVESTOCK CO
PO BOX 27
BOISE, ID 83707

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Exhibit A

Subcase Nos:

63-02239
63-02240
63-02386
63-02425
63-02657
63-02731
63-03107
63-04968
63-05036
63-05037
63-05038
63-05039
63-07244
63-07678
63-21537
63-21541
63-21557
63-21559
63-21561
63-21598
63-22210

2/27/08

Vic called - is still "gathering" information requested. He asked if I wanted the info he had or would I rather have it all in 1 package. I told him to submit it all together & initial hearing would be at end of May. ^{starting} fw



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
DAVID R. TUTHILL, JR., Director

December 20, 2007

J R SIMPLOT CO
ATTN: VIC CONRAD
PO BOX 27
BOISE ID 83707

Re: Canyon County Claims to Water Rights

Dear Vic:

We have not received any evidence of priority for the following claims: 63-21537 (stock water & commercial uses), 63-21541, 63-21557, 63-21559, 63-21561, 63-21598 (all stock water claims) and 63-22210 (expansion of Rt. 63-2291 from Bardsley Gulch). We need some type of documentation of the date of priority for these claims in order to change the recommendations that were previously made.

We also need to have some documentation showing when the rights utilizing the 14 wells and 14 pumps were integrated into one system. Claims 63-2731, 63-3107, 63-4968, 63-5036, 63-5037, 63-5038, 63-5039, 63-7244, 63-7678, 63-10034, 63-21537, 63-21538, 63-21539, 63-21540, 63-21541, and 63-21595 are the rights I find under the claimed combined system. Information in our files does not indicate when the wells were incorporated into one system and until we receive some documentation to show that they were integrated before November 19, 1987, we will not be able to recommend the water rights as claimed. The recommendations will reflect the rights as previously recorded unless we receive this information.

It is also noticed that our Department has previously requested completion of "Industrial Use Volume" questionnaires for the rights that include industrial and/or commercial uses. Please note that a portion of Adjudication Memo No. 34 states:

1. Ground water rights

All rights recommended with a source of ground water are to include annual diversion volume, except for ground water rights or portions of ground water rights used solely for:

- a. small D&S purposes as defined by Idaho Code §§ 42-111 or 42-1401A (5) and (12), in which a diversion volume has not been previously determined.**
- b. municipal purposes,**
- c. fire protection purposes.**

2. Other rights

All other rights to be recommended based on a license or decree that stated an annual diversion volume limitation are to include annual diversion volume.

We would certainly appreciate any information you can supply that would assist us in determining the volumes to be attached to the rights that are being used for industrial and/or commercial uses. If you need to have the questionnaire form sent to you again, please do not hesitate to contact me. If no information is received we will base the volume amounts on what we determine is necessary for the claimed uses.

Please submit all the requested information on or before **January 31, 2008**. Once we receive the information we will need to conduct field examinations on the claims that were not previously substantiated. If you have any questions concerning this letter, or if you need additional time to submit the requested information, please do not hesitate to contact me at 334-2190.

Sincerely,

A handwritten signature in cursive script that reads "Kay Walker". The signature is written in dark ink and is positioned above the printed name.

KAY WALKER
Sr. Water Resource Agent
Adjudication Bureau

Walker, Kay

From: Walker, Kay
Sent: Friday, October 05, 2007 1:10 PM
To: Conrad, Vic E
Cc: Walker, Kay
Subject: RE: Canyon County Claims

Hi, Vic...

Thanks for your quick response! I don't need to meet with the retired maintenance man – he just needs to write an affidavit of his recollection of when the system was interconnected and any other information that he can provide in support of the claims.

Kay

From: Conrad, Vic E [mailto:Vic.Conrad@simplot.com]
Sent: Thursday, October 04, 2007 3:59 PM
To: Walker, Kay
Subject: RE: Canyon County Claims

We gathered water use records on the question of the annual volume used in the plant. I am trying to reach the maintenance man who operated the water system on the feedlot. This person is retired, but is living in Caldwell. He will be able to confirm that all of these points of diversion were connected long before 1987. I just need to connect with him. Once I reach him, would you like to meet him to ask about the water system?

From: Walker, Kay [mailto:Kay.Walker@idwr.idaho.gov]
Sent: Thursday, October 04, 2007 2:54 PM
To: Conrad, Vic E
Cc: Walker, Kay
Subject: Canyon County Claims

Hi, Vic...

I was wondering if you had gathered the information requested in my letter of September 4th yet. I have not heard anything from you and thought maybe an e-mail would remind you that we still need information regarding claims in Canyon County. I have scanned my letter and attached it to this e-mail in case you have not received it. Please let me know when to expect your information. Thanks!!

Kay Walker
IDWR Western Region
334-2190