

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: **A43-00102C**
Date Received: 6/ 8/1989
Receipt No: C007327
Received By: _____

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: J. R. SIMPLOT COMPANY
Address: P.O. BOX 27
BOISE ID

83707

2. Date of Priority: NOV 30, 1886

3. Source: CASSIA CREEK

Trib. to: RAFT RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
13S	26E	14		NE	SW		CASSIA

5. Description of diverting works:
DIVERSION DAM AND DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.800		

7. Total Quantity Appropriated is:
0.800 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is 1431.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
13S	26E	11	NE	SW		IRR	25.0
			SE	SW		IRR	35.0
			NW	SE		IRR	40.0
			SW	SE		IRR	40.0

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10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	140.0
		12	NW	SW	IRR	37.0
			SW	SW	IRR	40.0
					Section Acres	77.0
		13	NW	NW	IRR	40.0
			SW	NW	IRR	40.0
					Section Acres	80.0
		14	NE	NW	IRR	40.0
			SW	NW	IRR	20.0
			SE	NW	IRR	40.0
			NW	SW	IRR	40.0
			SW	SW	IRR	40.0
					Section Acres	180.0
					Total Acres	477.0

11. Place of use in counties: CASSIA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

43-00099 -00100 -00101 -00103 -00104 -02536 -04197

14. Remarks:

P. D. GIVEN IN SUPERCEDED TRANSFER #225

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

ALBION-IDAHO LAND CO.
Decree Plaintiff

JOBE ADAMS ET AL
vs Decree Defendant

MICROFILMED

MAR 02 1993

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A43-00102 C
Date Received: 6-08-89
Receipt No: 0007327
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: J. R. SIMPLOT COMPANY
Address: P.O. BOX 27
BOISE, ID

83707

2. Date of Priority: NOV 30, 1886

3. Source: CASSIA CREEK Trib. to: RAFT RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
13S	26E	14		NE	SW		CASSIA

5. Description of diverting works:
DIVERSION DAM AND DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.800		

7. Total Quantity Appropriated is:
0.800 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is 1431.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13S	26E	11	NE	SW		IRR	25.0
			SE	SW		IRR	35.0
			NW	SE		IRR	40.0

A43-00102 C

Page 1

Date: 06/06/89

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MAR 02 1993

10. Place of Use: Continued

Township 13S	Range 26E	Section 11	1/4 SW	of 1/4 SE	Lot	Use IRR	Acres 40.0
						Section Acres	140.0
		12	NW SW	SW SW		IRR IRR	37.0 40.0
						Section Acres	77.0
		13	NW SW	NW NW		IRR IRR	40.0 40.0
						Section Acres	80.0
		14	NE SW SE NW SW	NW NW NW SW SW		IRR IRR IRR IRR IRR	40.0 20.0 40.0 40.0 40.0
						Section Acres	180.0
						Total Acres	477.0

11. Place of use in counties: CASSIA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

43-00099 -00100 -00101 -00103 -00104 -02536 -04197

14. Remarks:

P. D. GIVEN IN SUPERCEDED TRANSFER #225

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

ALBION-IDAHO LAND CO.

Decree Plaintiff

vs

JOBE ADAMS ET AL

Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: One Map

For Organizations:

I do solemnly swear or affirm that I am _____ Secretary _____ of _____ Title _____

J. R. Simplot Company, that I have signed the foregoing
Organization
document in the space below as _____ Secretary _____ of
Title _____

J. R. Simplot Company and that the statements contained in the
Organization
foregoing document are true and correct.

James A. Shaw
Signature of Authorized Agent

Secretary, J. R. Simplot Company
Title and Organization

6-7-89

Date

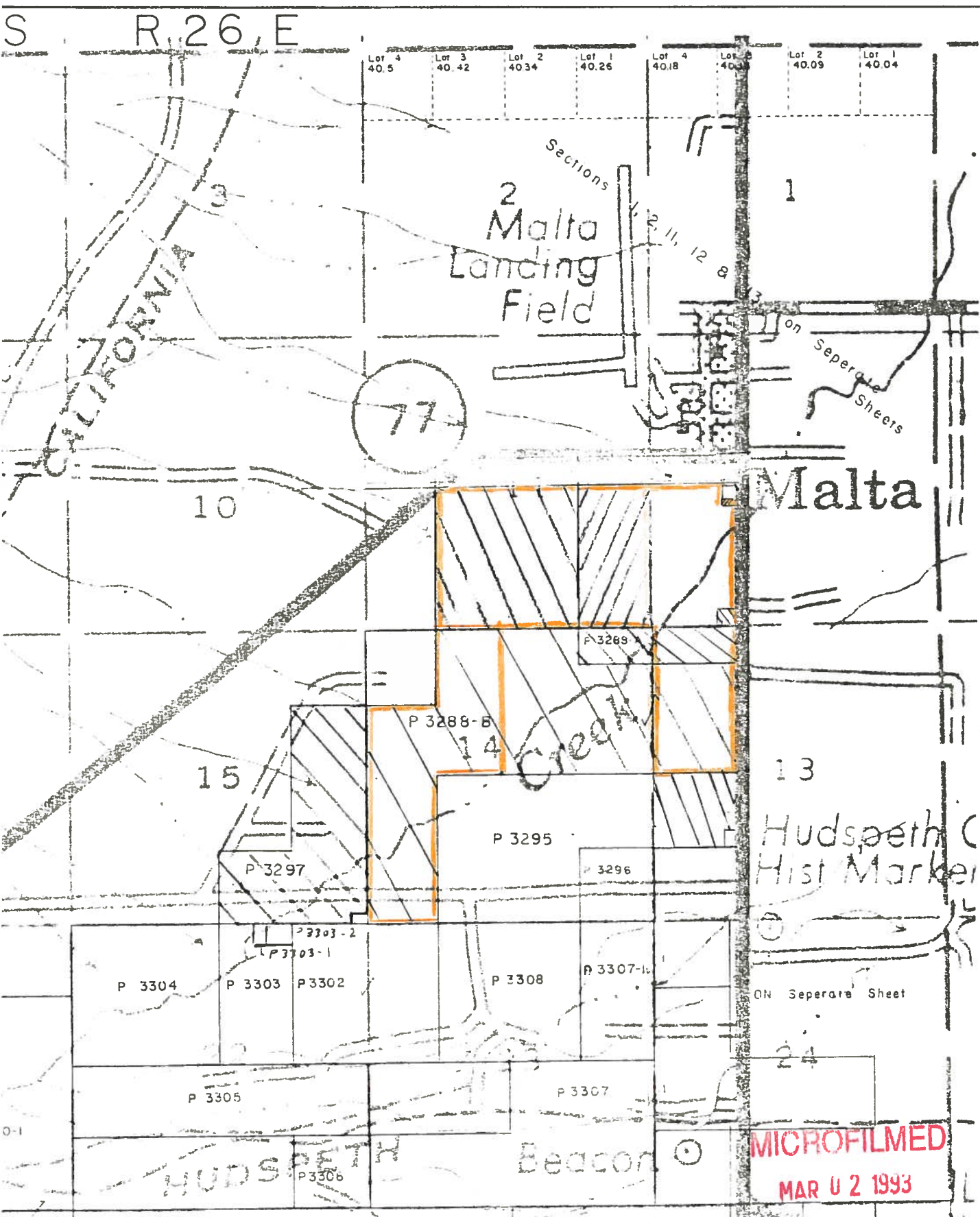
State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 7th day
of June 19 89

William A. Lowe
Notary Public

Seal

Residing at _____ Meridian
My Commission Expires 11-06-91



— = point of Diversion

WIR # A43-00102

— = Place of Use

T. 13S. R. 26E

13 S R 26 E

Lot 4 40.5 Lot 3 40.42 Lot 2 40.34 Lot 1 40.26 Lot 4 40.18 Lot 3 40.09 Lot 2 40.09 Lot 1 40.04

Sections
2 Malta
Landing
Field

Separate
Sheets

Malta

13

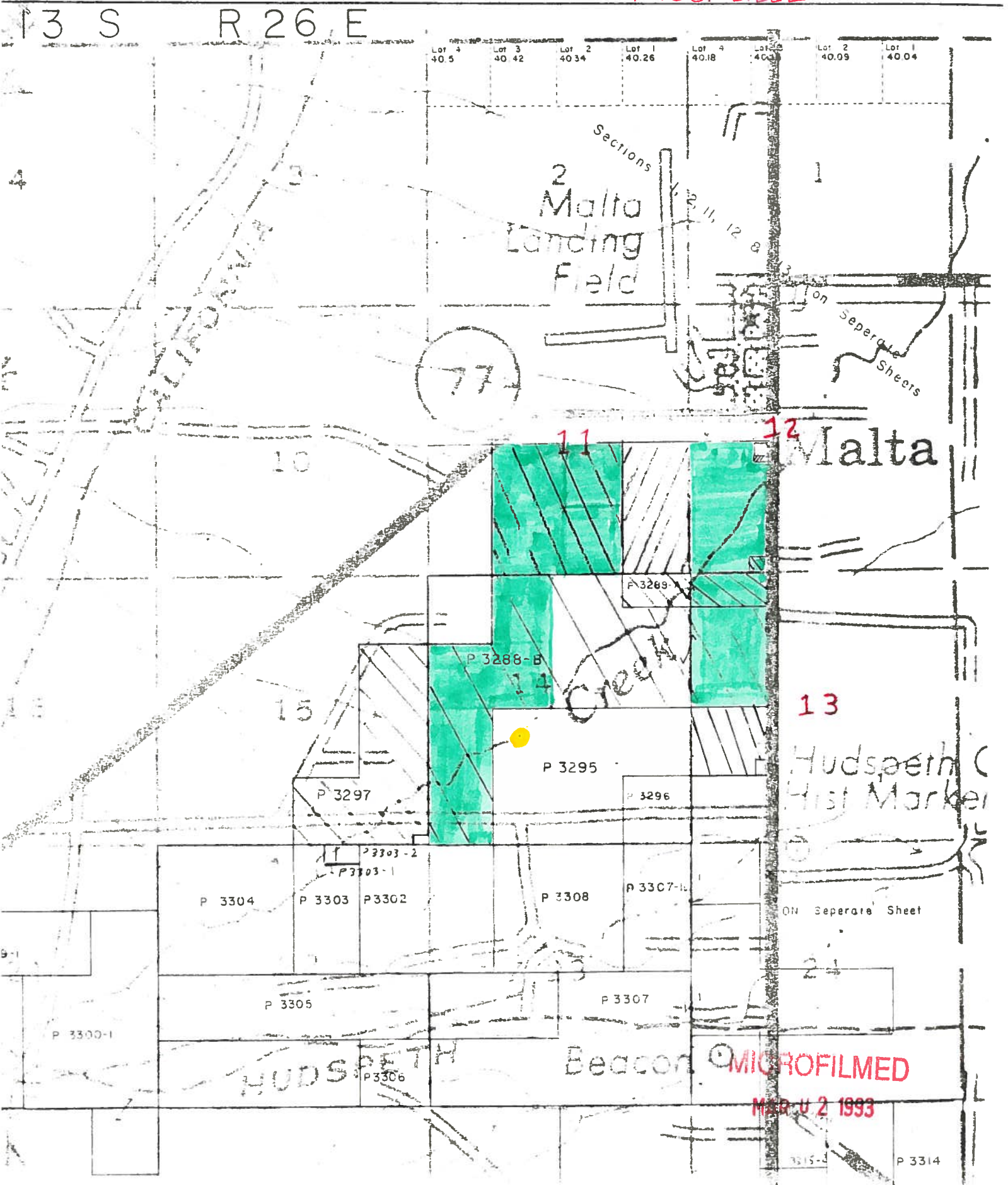
Hudspeth
Hist Marker

ON Separate Sheet

MICROFILMED

MAR 12 1993

P 3314





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

14-Jan-1992

J R SIMPLOT COMPANY
PO BOX 27
BOISE ID 83707

RE: Snake River Basin Adjudication (SRBA)
Cassia County - #A43-00099, A43-00100, A43-00101,
A43-00102, A43-00103, A43-00104
Identification Number Changes

Dear Simplot Company:

The Identification Numbers of your Notice of Claim to a Water Right have been changed from A43-00099 to A43-00099C, A43-00100 to A43-00100C, A43-00101 to A43-00101C, A43-00102 to A43-00102C, A43-00103 to A43-00103C, and A43-00104 to A43-00104B. The suffix has been added in order to distinguish your claims from other claims that may claim a portion of the original water rights. This change does not affect your claim in any other way.

Enclosed is a computer-generated copy of your claim with the new Identification Number. Refer to this record number in any future inquiries or correspondence.

Sincerely,

Jeanie Robertson
Records Clerk

/jr

Enclosures:

Claim A43-00099C
A43-00100C
A43-00101C
A43-00102C
A43-00103C
A43-00104B

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MAR 02 1993

INPUT: AJ_SELECTION:FRAZEE-NAME-SIMPLOT.SEL

IDaho DEPARTMENT OF WATER RESOURCES
ADJUDICATION ATTORNEY NAME ADD/UPDATE

DATE: 04/02/93
TIME: 23:15:44.0
PAGE: 3

TYPE OF ACTION: ADD
MODIFY ALL FIELDS FLAG:

LAST NAME: YOUNG, GRAY OR BRUCE BELZER
ADDRESS LINE 1: J R SIMPLOT CO LEGAL DEPT
ADDRESS LINE 3: PO BOX 27
CITY: BOISE

STATE: ID ZIP: 837070027

FIRST NAME:
ADDRESS LINE 2:999 MAIN ST STE 1300
PHONE NUMBER: (208) 389-7318

A36-04180	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A36-04181	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A36-04182	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A36-04256	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A36-07333	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A36-07636	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A36-08154	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A36-13319	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A36-13320	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A37-00141	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A37-00142	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A37-00143	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A37-00465	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A37-00692A	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A37-00692B	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A37-11907	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A37-11908	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00099C	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00100C	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00101C	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00102C	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00103C	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00104B	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00105	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00106	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00107	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00256	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00257	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00258	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00275	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00276	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00277	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00317	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-00318	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A3-00481	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02010	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02045	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-0215A	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02115B	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02313A	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02329	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02378	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02382	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02471	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02472	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02473	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02475	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02483	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE
A43-02484	ATTORNEY NAME	SUCCESSFULLY ADDED TO NAME FILE

GRAY YOUNG
BRUCE BELZER
Attorneys at Law
J. R. Simplot Company Legal Department
999 Main Street, Suite 1300
P.O. Box 27
Boise, ID 83707
(208) 389-7318
(208) 389-7515 Telefacsimile

Attorneys for J. R. Simplot Company

RECEIVED
JAN 21 1992

Department of Water Resources

RECEIVED

APR 06 1993

Department of Water Resources
Southern Region Office

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF CASSIA

In Re the General Adjudication
of Rights to the Use of Water
From the Snake River Drainage
Basin Water System.

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

Petitioner,

vs.

The United States;
The State of Idaho;
and All Claimants to the Use
of Water from the Snake River
Basin Water System,

Respondents.

ALICE FOSHA, HELEN FLINT, and
BEVERLY ADAMS, individuals,

Plaintiffs,

vs.

A. KENNETH DUNN, Director of the
Department of Water Resources
of the State of Idaho,

Twin Falls County
Civil Case No. 39576

and

Cassia County
Civil Case No. 13770-12-83

NOTICE OF APPEARANCE

*Don modified thru
C.A.N. program.*

*4-1-93
- Jf*

Defendants.)

IN THE MATTER OF THE GENERAL)
DETERMINATION OF RIGHTS TO THE)
USE OF GROUNDWATER DIVERTED)
FROM SECTIONS 19, 20, 21, 28, 29,)
30, 31, 32, AND 33, T. 11 S.,)
R. 27 E., B.M.)

A. KENNETH DUNN, Director of the)
Department of Water Resources)
of the State of Idaho,)

Counterplaintiff,)

vs.)

ALICE FOSHA, HELEN FLINT, and)
BEVERLY ADAMS, individuals,)

Counterdefendants.)

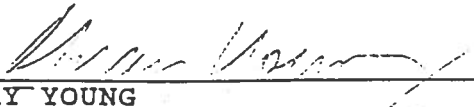
TO ALL PARTIES:

GRAY YOUNG, Assistant General Counsel, J. R. Simplot
Company, hereby enters his appearance as co-counsel on behalf
of J. R. Simplot Company in this action. All notices to
J. R. Simplot Company should be delivered to the following
address:

Gray Young
Bruce Belzer
J. R. Simplot Company
Legal Department
999 Main Street, Suite 1300
P.O. Box 27
Boise, ID 83707

DATED this 20th day of January, 1992.

By


GRAY YOUNG
Assistant General Counsel

4507v/1-20-92/142

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true and correct copy of the foregoing NOTICE OF APPEARANCE was mailed this 20th day of January, 1992, in an envelope with sufficient first-class postage prepaid thereon to the following:

Idahome Farms, Inc.
1925 Oakley Avenue
Burley, ID 83318

Dennis Jay Harper
Star Route
Declo, ID 83323

Roland Allen Land &
Livestock
Star Route
Malta, ID 83342

Mark J. Taylor
Strong & Manni
5th Floor, Boston Building
Salt Lake City, UT 84111
Attorney for Fosha, et al.

Leo A. Jardine
Jardine, Linebaugh,
Brown & Dunn
Suite 400
370 East South Temple
Salt Lake City, UT 84111
Attorney for Raft River Ranches, Inc.

A. Lynne Krogh-Hampe
Deputy Attorney General
Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706-2237


VICKI SPANGLER

RECEIVED

JAN 22 2002

Department of Water Resources
Southern Region

RECEIVED

JAN 15 2002

Department of Water Resources

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

Case No. 39576

A. Subcase

102C

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name:

Ted Higley

Address:

PO Box 57

Malta, Id 83342

Daytime Phone: 208-645-2444

Name & Address of Attorney, if any:

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name:

UR Simplot Co

Address:

PO Box 27

Boise, Id 83707

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: EVEN PER ACRE
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point(s) of Diversion** T135 R26E NENE NE S14
Should be: " " SE SENW S14
due to no participation in construction.
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____

11. I object because:

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): _____

F. VERIFICATION (Must be Completed)

State of Idaho
County of Twin Falls)^{ss.}

Ted Higley, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

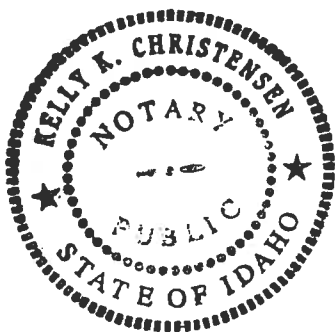
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Ted Higley
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 1-11-02

Kelly K. Christensen
Notary Public for IDWR
Residing at: Twin Falls
My Commission Expires: 3-11-04



INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on 1 - 14 2002 I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: VR Simplot Co
Address: PO Box 27
Boise, Id 83707

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Betty Anne Sigley
Signature of Objector or attorney
mailing on Objector's behalf

IDAHO DEPARTMENT OF WATER RESOURCES 09/26/2001
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

NAME AND ADDRESS: J R SIMPLOT CO
PO BOX 27
BOISE ID 83707

SOURCE: CASSIA CREEK TRIBUTARY: RAFT RIVER

QUANTITY: 0.80 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN .02
CFS PER ACRE. COMBINED RIGHT NOS. 43-2536, 43-99C, 43-100C, 43-101C,
43-102C, 43-104B, 43-105, 43-106, 43-107, 43-275, 43-276, 43-277, 43-10591,
AND 43-10592

PRIORITY DATE: 11/30/1886

POINT OF DIVERSION:

T13S R26E S14 NENENE Within CASSIA County
~~T13S R26E S14 SESENW Within CASSIA County~~
T13S R26E S14 SWNWSW Within CASSIA County
T13S R26E S21 SWSENE Within CASSIA County
T13S R26E S22 NENENW Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.800 CFS

PLACE OF USE: IRRIGATION Within CASSIA County

T13S R26E S11	NESW	17.0	T13S R26E S11	SESW	26.0
T13S R26E S11	NESE	40.0	T13S R26E S11	NWSE	40.0
T13S R26E S11	SWSE	40.0	T13S R26E S11	SESE	38.0
T13S R26E S12	NWSW	30.0	T13S R26E S12	SWSW	30.0
T13S R26E S13	NWNW	39.0	T13S R26E S13	SWNW	39.0
T13S R26E S14	NENE	40.0	T13S R26E S14	NWNE	40.0
T13S R26E S14	SWNE	40.0	T13S R26E S14	SENE	40.0
T13S R26E S14	NENW	35.0	T13S R26E S14	SWNW	17.0
T13S R26E S14	SENW	40.0	T13S R26E S14	NWSW	36.0
T13S R26E S14	SWSW	40.0	T13S R26E S15	NESE	8.5
T13S R26E S15	SWSE	31.0	T13S R26E S15	SESE	31.0

737.5 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED
TOTAL OF 416 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.
43-99C, 43-100C, 43-101C, 43-102C, AND 43-104B.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED
TOTAL OF 737.5 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT
NOS. 43-2536, 43-99C, 43-100C, 43-101C, 43-102C, 43-104B, 43-105, 43-106,
43-107, 43-275, 43-276, 43-277, 43-10591, AND 43-10592

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: Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION
42-1425, IDAHO CODE.

05/09/2001

RECEIVED
JUN 20 2001
Department of Water Resource
Southern Region

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: June 15, 2001

Water Right Number: 43-102C

- 1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):**

Quantity (rate of diversion)

- 2. Describe the changes you wish to make in the proposed recommendation:**

The quantity described for the recommended place of use, as provided in the Jobe Adams Decree (1922) and as further confirmed and explained in the J.B. Hitt et al. Decree (1926), is .8 cfs. This quantity of water remains appurtenant to the recommended place of use. Therefore the quantity should be changed from .55 cfs, the IDWR's preliminary recommended rate of diversion, to .8 cfs, the quantity of this water right owned by the Claimant.

- 3. Give a brief explanation as to why you disagree with these portions:**

In the attached Warranty Deed recorded in the real property records of Cassia County on July 9, 1947, as instrument no. 159895, H.F. and Rosa Deardorff, the Grantors, conveyed a parcel of land containing approximately 80 acres to a predecessor of the current landholder, together with water rights specifically identified as "...80 inches of the decreed water of Cassia Creek bearing a priority 1894.." Similarly, in the attached Warranty Deed recorded in the real property records of Cassia County on November 9, 1945, as instrument no. 152869, the Deardorffs conveyed a parcel of land containing approximately 120 acres to a predecessor of the current landholder, together with water rights specifically identified as "...120 inches of the decreed water of Cassia Creek bearing date of priority 1894.."

In circumstances where a deed conveying real property lists specific water rights to be included in the conveyance, Idaho Law limits the water rights conveyed to only those specifically identified in the deed. The conveyance of any other right not identified in

the deed is excluded from the land transfer [*Paddock v. Clark*, 22 Idaho 498 (1912); *Harris v. Sewell*, 51 Idaho 283, (1931); *Davis v Randall*, 44 Colo. 488, (1908)].

The Claimant is the successor in interest to land and related water rights formerly owned by the Deardorffs. The water rights were reserved by the Deardorffs and were not conveyed in either of the deeds conveying adjacent parcels and specific water rights to others. The Grantees in both of the attached Warranty Deeds are entitled to only that portion of the water right particularly described in the deeds (a portion of water right no. 43-103). The Grantees in both real property transfers are entitled to only the water rights expressed, and did not take any additional rights by implication [*Kofoed v. Bray*, 69 Mont. 78(1923)]. Deardorff reserved those rights which were not conveyed. Consequently, the Claimant is entitled to the full quantity awarded in the Jobe Adams Decree for the recommended place of use.

_____ I AGREE with this proposed recommendation; no changes need to be made.

J. R. Simplot Company

DATE: 6/15/01

SIGNATURE: By: Ronald N. Graves

Please print your name: Ronald N. Graves, Vice President, Secretary and
General Counsel

IDWR Regional Office, 1341 Fillmore St, Suite 200 Twin Falls, ID 83301, (208) 736-3033

01/08/2001

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

RIGHT NUMBER: 43-102C

NAME AND ADDRESS: J R SIMPLOT COMPANY
PO BOX 27
BOISE, ID 83707

SOURCE: CASSIA CREEK TRIBUTARY: RAFT RIVER

QUANTITY: 0.80 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE.
COMBINED RIGHT NOS. 43-2536, 43-99C, 43-100C, 43-101C, 43-102C, 43-103C, 43-104B, 43-105,
43-106, 43-107, 43-275, 43-276, 43-277, 43-10591, AND 43-10592

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 8.32
CFS. COMBINED RIGHT NOS. 43-99C, 43-100C, 43-101C, 43-102C, 43-103C, AND 43-104B.

PRIORITY DATE: 11/30/1886

POINT OF DIVERSION:	T13S R26E S14	NENENE	Within CASSIA County
	T13S R26E S14	SESENE	Within CASSIA County
	T13S R26E S14	SWNWSW	Within CASSIA County
	T13S R26E S21	SWSENE	Within CASSIA County
	T13S R26E S22	NENENW	Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03-15 11-15	0.80 CFS

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>					
T13S R26E S11	NESW	17	T13S R26E S11	SESW	26
T13S R26E S11	NESE	40	T13S R26E S11	NWSE	40
T13S R26E S11	SWSE	40	T13S R26E S11	SESE	38
T13S R26E S12	NWSW	30	T13S R26E S12	SWSW	30
T13S R26E S13	NWNW	39	T13S R26E S13	SWNW	39
T13S R26E S14	NENE	40	T13S R26E S14	NWNE	40
T13S R26E S14	SWNE	40	T13S R26E S14	SENE	40
T13S R26E S14	NENW	35	T13S R26E S14	SWNW	17
T13S R26E S14	SENW	40	T13S R26E S14	NWSW	36
T13S R26E S14	SWSW	40	T13S R26E S15	NESE	8.5
T13S R26E S15	SWSE	31	T13S R26E S15	SESE	31

737.5 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL
OF 737.5 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-2536, 43-99C,
43-100C, 43-101C, 43-102C, 43-103C, 43-104B, 43-105, 43-106, 43-107, 43-275, 43-276,
43-277, 43-10591, AND 43-10592

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF
416 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-99C, 43-100C, 43-101C,
43-102C, 43-103C, AND 43-104B.

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 - Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

01/08/2001

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

RIGHT NUMBER: 43-102C

NAME AND ADDRESS: J R SIMPLOT COMPANY
PO BOX 27
BOISE, ID 83707VERIFIED BY *KKC*

SOURCE: CASSIA CREEK

TRIBUTARY: RAFT RIVER

QUANTITY: 0.55 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE.
COMBINED RIGHT NOS. 43-2536, 43-99C, 43-100C, 43-101C, 43-102C, 43-103C, 43-104B, 43-105,
43-106, 43-107, 43-275, 43-276, 43-277, 43-10591, AND 43-10592
USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 8.32
CFS. COMBINED RIGHT NOS. 43-99C, 43-100C, 43-101C, 43-102C, 43-103C, AND 43-104B.

PRIORITY DATE: 11/30/1886

POINT OF DIVERSION:	T13S R26E S14	NENENE	Within CASSIA County
	T13S R26E S14	SESENW	Within CASSIA County
	T13S R26E S14	SWNWSW	Within CASSIA County
	T13S R26E S21	SWSENE	Within CASSIA County
	T13S R26E S22	NENENW	Within CASSIA County

PURPOSE AND
PERIOD OF USE:PURPOSE OF USE
IRRIGATIONPERIOD OF USE
03-15 11-15QUANTITY
0.55 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County

T13S R26E S11	NESW	17	T13S R26E S11	SESW	26
T13S R26E S11	NESE	40	T13S R26E S11	NWSE	40
T13S R26E S11	SWSE	40	T13S R26E S11	SESE	38
T13S R26E S12	NWSW	30	T13S R26E S12	SWSW	30
T13S R26E S13	NWNW	39	T13S R26E S13	SWNW	39
T13S R26E S14	NENE	40	T13S R26E S14	NWNE	40
T13S R26E S14	SWNE	40	T13S R26E S14	SENE	40
T13S R26E S14	NENW	35	T13S R26E S14	SWNW	17
T13S R26E S14	SENW	40	T13S R26E S14	NWSW	36
T13S R26E S14	SWSW	40	T13S R26E S15	NESE	8.5
T13S R26E S15	SWSE	31	T13S R26E S15	SESE	31

737.5 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL
OF 737.5 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-2536, 43-99C,
43-100C, 43-101C, 43-102C, 43-103C, 43-104B, 43-105, 43-106, 43-107, 43-275, 43-276,
43-277, 43-10591, AND 43-10592

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF
416 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-99C, 43-100C, 43-101C,
43-102C, 43-103C, AND 43-104B.

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 - Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

Idaho Dept of Water Resources
Claims review notes and narrative

Date: 1-5-2001

File: 43-99c 2536 simplot deardorf place

Prepared by Kelly K Christensen

Simplot Groundwater System
A43-02536, A43-04197, A43-10591, & A43-10592

The general place of use is covered in its entirety by 43-02536. The statutory claim should be recognized for additional acres and diversion rate only if it can be demonstrated that the delivery system was enlarged prior to the mandatory permit statutes. The following is a timeline documenting the development of ground irrigated under the groundwater system.

43-02536	September 11, 1961	An Application for Permit is filed for 760 acres. At 8.00 cfs.
	April 29, 1966	Certificate of Completion of Works submitted. Identifies 8.00 cfs from the permit with a system capacity of 3.22 cfs and the same as shown on the permit.
	May 27, 1966	Field examination conducted by the department. Identifies a 125-hp pump discharging into a pond and then open ditch. Measurement of diversion 3.22 cfs. P/U = 616 ac
	June 29, 1966	License issued for 3.22 cfs with the capacity also identified as 3.22 cfs. P/U = the same 616 ac as shown on field exam.
43-04197	June 30, 1983	Statutory Claim submitted. The claim was for 2.40 cfs for 120 acres. (W1/2NW1/4 of sec 12, also part of 43-02536) and (NW1/4SW1/4 of sec 13, a new quarter/quarter). The claim identifies the system as a 200-hp pump to a mainline. No evidence of priority submitted at this time.

Preliminary Analysis:

Based upon the above information it appears that most if not all of the ground identified in the statutory claim was developed after 1966 and that the delivery system was enlarged after that date to deliver additional water.

RECOMMENDATION FOR GROUND WATER SYSTEM

43-2536 is still being used basically as licensed and is therefore recognized for the licensed elements. This claimed place of use overlaps with decreed surface water rights and 3 tile drain rights.

There is not enough information available to be able to recommend 43-4197 as a beneficial use right with a 1961 priority date. After calculating acres through arcview I did not find any additional acres beyond the licensed acres being irrigated.

The ground in Sec 15 and the SWSW of Sec 14 were not part of the licensed place of use and I did not observe any pipeline delivering water to that ground. The highest point of those tracts is in the SWSWSE of Sec 15 with the general lay of the ground is downhill to the northeast from that point.

The NWSW of Sec 13 is irrigated with Cassia Creek water from a point of diversion in 13S, 26E, SEC 23 NWSWNE (Shared with Higley). Water enters the 40-acre tract in the southwest corner and flow is northeast across the property. I did not observe any method for groundwater to reach this tract. The decreed right appurtenant to this tract is 43-251, which has not been claimed by Simplot at this time.

My recommendation excludes the 5 tracts identified above. I am recognizing groundwater as follows;

43-2536 616 acres at 2.40 cfs

43-4197 DISALLOWED – P01 NO LAWFUL APPROPRIATION

This right could have been disallowed based upon P06 NO BENEFICIAL USE FOUND, as I did not identify any additional irrigated acres being irrigated.

RECOMMENDATION FOR SURFACE WATER SYSTEMS

The claimed place of use covers ground originally decreed in the Jobe Adams decree under 4 different systems. Three of those have been claimed. 43-251 is appurtenant to SWSW of Sec 14 (and other ground) but has not been claimed as of the date of this report. I am excluding this ground from the recommended place of use. I am recommending the decreed surface water rights as shown in the table below. All of the rights are recommended as part of a common PP/U and show all Cassia Creek points of diversion. The system combined diversion rate limits are based upon the found acres within the decreed place of use. The acre limits for the combined systems are based upon the found acres within the original decreed place of use.

The current farm consists of all or part of 4 parcels identified in the Jobe Adams Decree.

DECREED SURFACE WATER RIGHTS

Parcel 1					
	Decreed or proportional rate	Decreed acres at 40 acres per quarter	Claimed acres	Found acres within decreed place of use	Combined right rate limitation
43-275	0.80	160 ac	95 ac	70.5 ac	1.41 cfs
43-276	0.40				
43-277	1.20				
	2.40 cfs				
Parcel 2					
43-105	0.80	160 ac	140 ac	133 ac	2.66
43-106	0.80				
43-107	1.60				
	3.20 cfs				
Parcel 3					
43-99C	1.72	440	636	416 ac	8.32
43-100C	1.65		636		
43-101C	0.83		576		
43-102C	0.55		477		
43-103C	3.51 (1.10 cfs)		437		
43-104B	0.55		476		
	8.80 cfs				
Parcel 4					
43-251 (part)	0.266	40	Not claimed	37 ac	
System totals					
	14.66			737.5 ac	

Total includes acres under the groundwater right 43-2536 but excludes the 37 acres identified under 43-251 (part) which was not claimed.

RECOMMENDATION FOR TILE DRAIN SYSTEMS

I found three tile drain systems during my field verification exam on 8-22-2000. There are two claims against those systems. The only evidence of priority for the tile drain systems is a warranty deed identified as DEED RECORD No. 49 dated November 6, 1945. That instrument indicates that the tile system diverted from the NWNW of Sec 13 was to be shared for stockwater purposes on property to the east of the current Simplot property. Although the tile systems were no doubt in for a number of years prior to this date, I am recommending this right with an 11-9-1945 priority date (the date of that instrument).

Exact acres under each system are somewhat ambiguous and appear to have changed somewhat over the years. The irrigation system was developed under a gravity flood system therefore I have used ditch boundaries as far as possible to calculate the acres irrigated under each system. Each right has claimed stockwater along with the irrigation. Stock use was observed on the property during the field exam. The claimed irrigation diversion rate for each claim is less than 1 inch per acre and the discharge observed was minimal at exam time. The system has the capacity to carry in excess of the claimed rate therefore I accept the rate as claimed.

I am recognizing 43-10591 for the claimed point of diversion and for the acres northeast of that point. I found a total of 33 irrigated acres.

I am recognizing 43-10592 with one drain as the source for the irrigation of ground northeast of that point of diversion also. I found 30.3 irrigated acres under this system.

The third tile system has not been claimed as of this date.