



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

July 23, 2002

KARL J. DREHER
DIRECTOR

J R SIMPLOT COMPANY
PO BOX 27
BOISE ID 83707

RE: Snake River Basin Adjudication (SRBA)
Late Notice of Claim to a Water Right #43-13212

Dear Claimant:

Your Notice of Claim to a Water Right referenced above has been received from the SRBA Court recently. I have enclosed your receipt #C063399 for your records

Your Notice of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/327-7932 if you have any questions.

Please notify us in writing if your address changes or if there is a change in ownership of your property and water right.

Sincerely,

A handwritten signature in black ink, appearing to read 'Donald V. Shaff'.

Donald V. Shaff, Manager
Adjudication Technical Section

DVS:ss:region
Enclosure:

Receipt #C063399

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 43-13212
Date Received: 4/26/2002
Receipt No: C063399
Received By: J. Maei

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

J R SIMPLOT COMPANY Phone: (208) 336-2110
PO BOX 27
BOISE ID USA 83707

2. Date of Priority: 04/01/1894

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	Type
13S	26E	23	SW NE	CASSIA	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.8	

7. Total Quantity Appropriated is:
0.8 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
13S	26E	13	NW SW	IRRIGATION	40
Section Acres					40
Total Acres					40

COINUED
7 2002

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:

14. Remarks:

This claim is based upon a portion of 43-251 that was decreed to the claimed 40 acre tract and additional ground.

15. Basis of Claim: Decreed

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: 0

For Organizations:

I do solemnly swear or affirm that I am V.P., Secretary and Chief Legal Officer of _____ Title

J. R. Simplot Company, that I have signed the foregoing document in the _____ Organization

space below as V.P., Secretary and Chief Legal Officer of J. R. Simplot Company Title Organization

and that the statements contained in the foregoing document are true and correct.

Ronald N. Graves
Signature of Authorized Agent

Ronald N. Graves

Vice President, Secretary and Chief Legal Officer
J. R. Simplot Company

Title and Organization

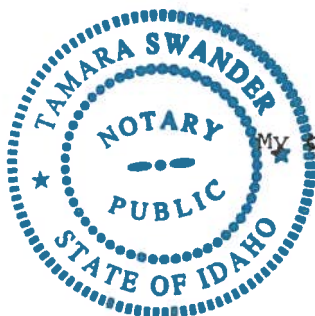
4-26-02

Date

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 26 day of April 2002

Tamara Swander
Notary Public



Residing at Emmett
My Commission Expires 4-4-06

SCANNED

11/17/2002

RECEIVED

JUL 17 2002

2002 JUL 16 PM 2:29

Department of Water Resources

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

Case No. 39576

)
) Subcase(s): 43-13212
)
) ORDER GRANTING MOTION TO FILE
) LATE NOTICE OF CLAIM

On April 30, 2002, Claimant J R Simplot CO filed a *Motion to File Late Notice of Claim*. A hearing was held on the *Motion* July 16, 2002. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to this Late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for water right 43-13212 is granted.

The original Notice of Claim, as well as any filing fees submitted, and a copy of this *Order* will be forwarded to the Idaho Department of Water Resources for further action.

IT IS SO ORDERED.

DATED July 16, 2002



ROGER S. BURDICK

Presiding Judge

Snake River Basin Adjudication

SCANNED

JUL 17 2002

CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM** was mailed on July 16, 2002, with sufficient first-class postage to the following:

J R Simplot CO
Po Box 27
Boise, ID 83707

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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


Deputy Clerk

SCANNED

JUL 17 2002

APR 30 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

SUBCASE NO: 43-13212

(Insert Water Right Number)

Case No. 39576

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a separate form for each late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is: Ronald N. Graves, Vice President,
Secretary and Chief Legal Officer
of the J. R. Simplot Company

My address is: PO Box 27
Boise, Idaho 83707

SCANNED

APR 30 2002

My phone number is: Work: (208) 336-2110 Home:

I am an attorney representing:

My name is:

My address is:

My phone number is:

Fax

MOTION TO FILE A LATE NOTICE OF CLAIM

- ☒ I did not file a Notice of Claim to the use of water in the SRBA because:
A recent field visit resulted in a finding that this claim was inadvertently omitted by the claimant during the initial claims taking period for Bain 43.
- ☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stockwatering use.
- ☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$_____.
n/a
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a Notice of Claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources (IDWR) in the amount of \$100.00.

SCANNED
APR 30 2002

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on July 16, 2002 at 1:30pm.

(Insert Date and Time)

at the SRBA Courthouse, 253 Third Avenue North, Twin Falls, Idaho.

VERIFICATION (Must be completed)

State of Idaho

County of Ada

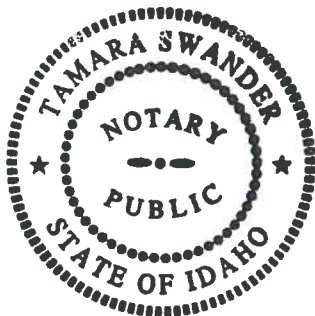
Ronald N. Graves, V.P., Secretary and Chief Legal Officer, being first duly sworn, upon
(Insert name of person filing form)
oath, deposes and says:

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.


Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on April 26, 2002
(Insert Date)




Notary Public for State of Idaho

Residing at: Emmett

My Commission expires: 4-4-06

SCANNED
APR 30 2002

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

I certify that on April 29, 2002 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

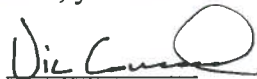
2. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

United States, Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or Special Master, you must serve a copy on all parties to that subcase.



Signature of person or attorney mailing the form

SCANNED
APR 30 2002

Simplot
SHARED SERVICES AP

Check Number	00123019	
Check Date	04/29/02	
Check Amount	100.00	
Invoice Amount	Discount	Net Amount
100.00	0.00	100.00
100.00	0.00	100.00

THE ATTACHED CHECK IS IN PAYMENT FOR THE ITEMS DESCRIBED ABOVE

REMOVE DOCUMENT ALONG THIS PERFORATION

THIS DOCUMENT IS PRINTED IN TWO COLORS, DO NOT ACCEPT UNLESS BLUE AND GREEN ARE PRESENT

Simplot
AP CHECK

WELLS FARGO BANK, N.A.

$$\frac{92-6}{1241}$$

04/29/02

Check No.
00123019

PAY *One hundred and 00/100 Dollars*

TO THE Idaho Dept of Water Resources
ORDER
OF

\$100



Oliver R. Magnus

11 1 230 1911 1:1 24 100064: 513000 299011

SCANNED

PR - 11112

**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.

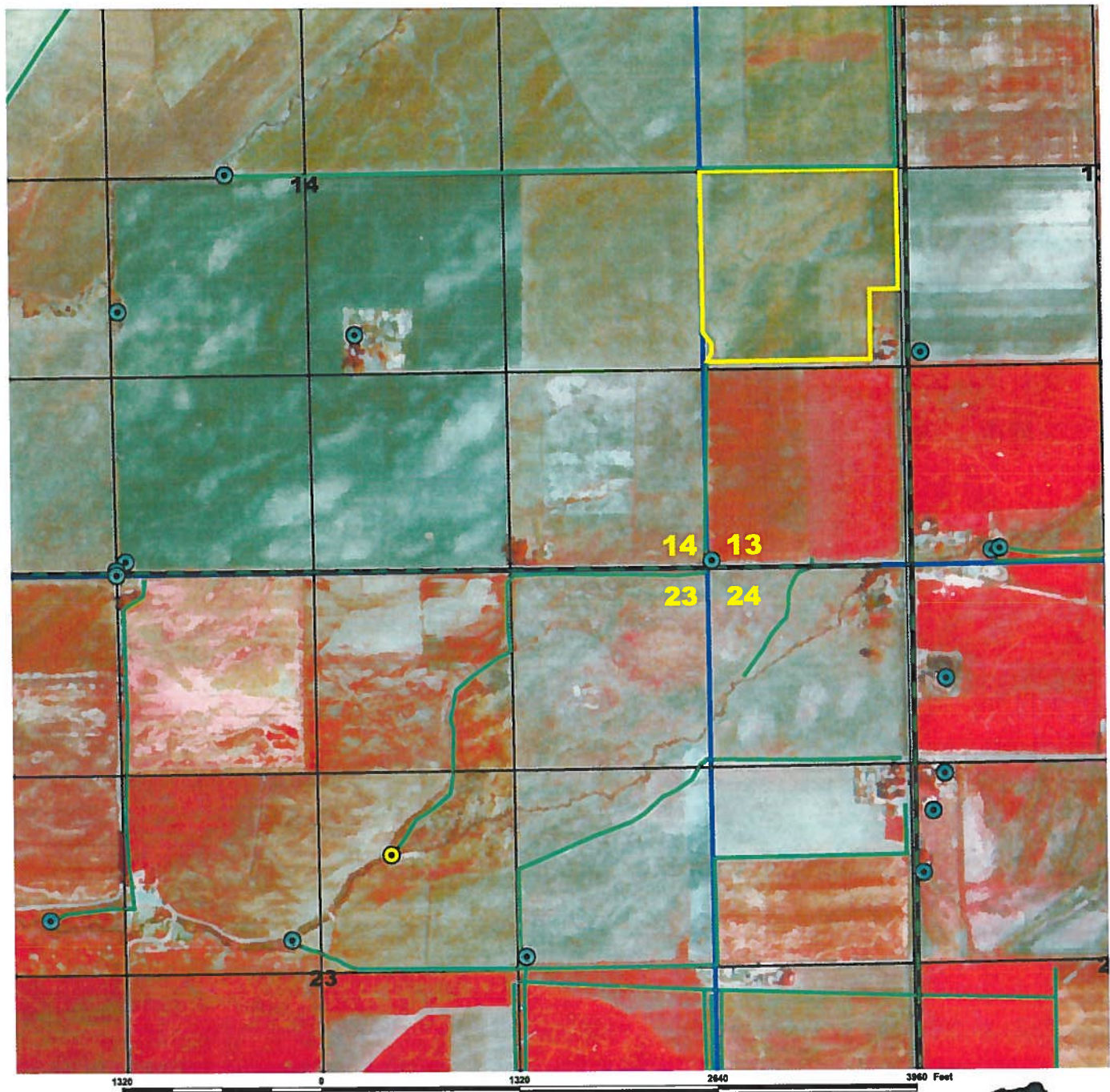
I am recognizing 43-10591 for the claimed point of diversion and for the acres northeast of that point. I found a total of 33 irrigated acres.

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.

Idaho Department of Water Resources

**RECOMMENDED PLACE OF USE FOR
43-13212**



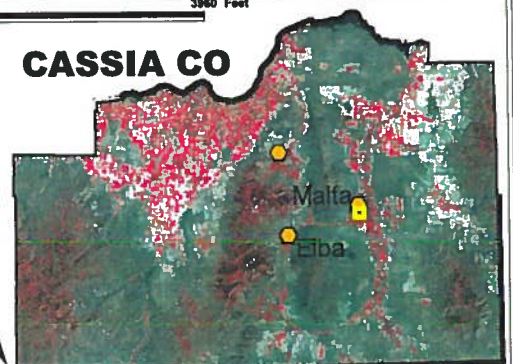
PLACE OF USE
TWP 13S, RNG 26E SEC 13
Data entry on February 9, 2004

GIS PLACE OF USE PRESENTATION
1987/1988 NAPP AERIAL PHOTOGRAPHY
DATA ENTRY BY KELLY K CHRISTENSEN

-  **RECOMMENDED POINT OF DIVERSION**
-  **RECOMMENDED PLACE OF USE**
-  **SECTION LINES**
-  **QUARTER/QUARTER LINES**



CASSIA CO



02/09/2004

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

RIGHT NUMBER: 43-13212
NAME AND ADDRESS: J R SIMPLOT CO
C/O RON GRAVES
999 MAIN ST STE 1300
PO BOX 27
BOISE ID 83707

VERIFIED BY KKC

SOURCE: CASSIA CREEK TRIBUTARY: RAFT RIVER
QUANTITY: 0.270 CFS
PRIORITY DATE: 04/01/1894
POINT OF DIVERSION:

T13S R26E S23 NWSWNE 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	0.270 CFS

PLACE OF USE: IRRIGATION Within CASSIA County
T13S R26E S13 NWSW 36.0

36 ACRES TOTAL

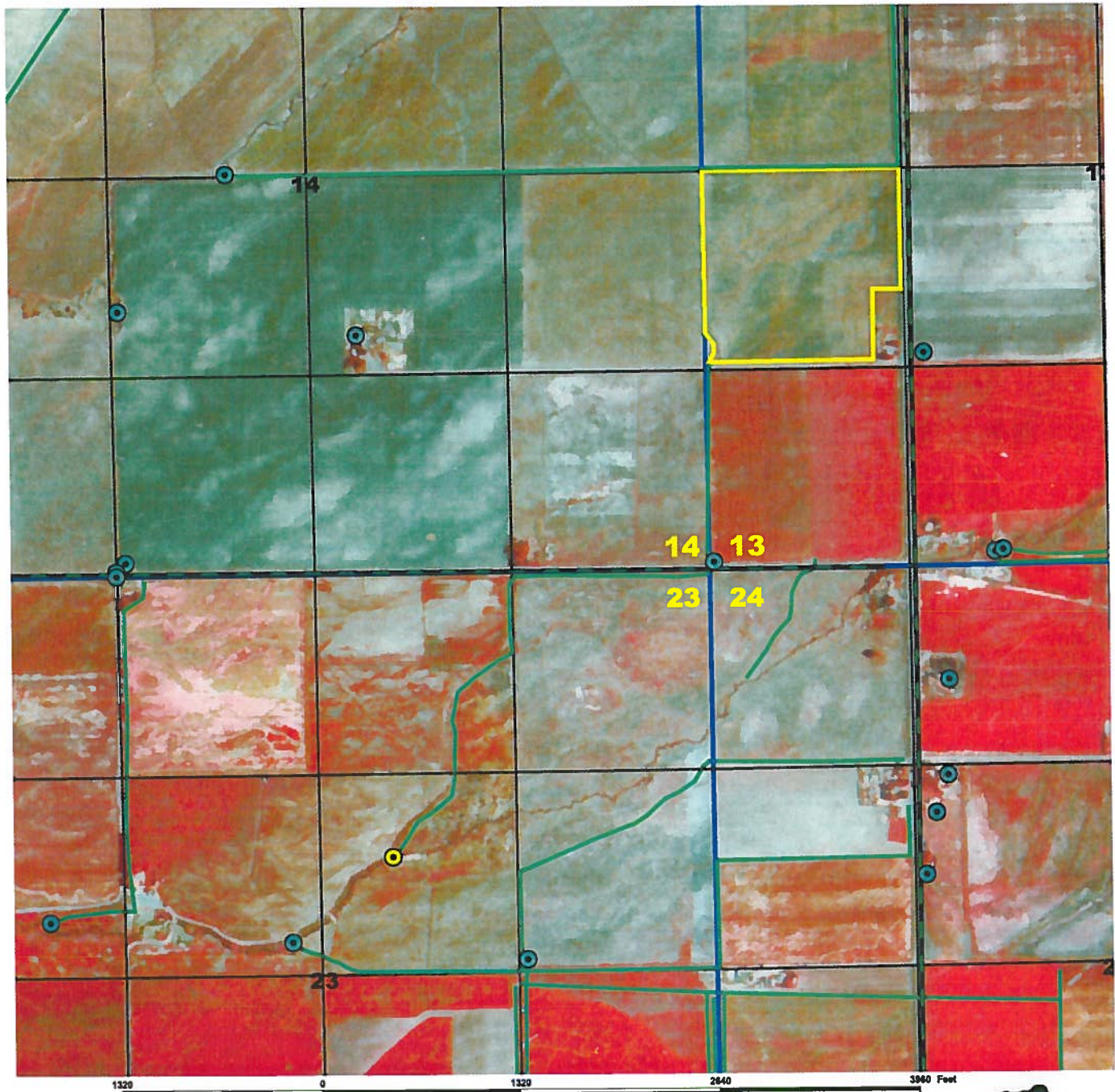
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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: Decreed

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 43-251

RECOMMENDED PLACE OF USE FOR 43-13212

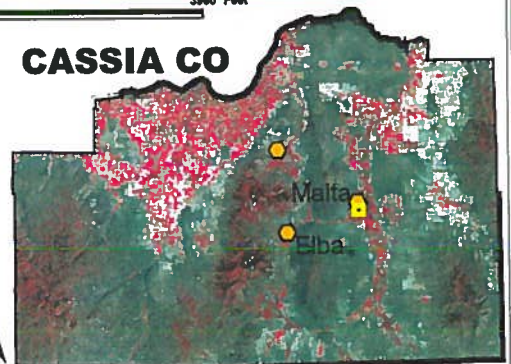


PLACE OF USE
TWP 13S, RNG 26E SEC 13
Data entry on February 9, 2004

GIS PLACE OF USE PRESENTATION
1987/1988 NAPP AERIAL PHOTOGRAPHY
DATA ENTRY BY KELLY K CHRISTENSEN

- RECOMMENDED POINT OF DIVERSION
- RECOMMENDED PLACE OF USE
- SECTION LINES
- QUARTER/QUARTER LINES

CASSIA CO



**Idaho Dept of Water Resources
Claims review notes and narrative**

Date: 2-9-2004

File: 43-13212 SIMPLOT LATE CLAIM ANALYSIS Prepared by Kelly K Christensen

43-13212 SIMPLOT LATE CLAIM ANALYSIS

Basis – Jobe Adams decreed right 43-251

43-251 This right was decreed to three 40-acre tracts at 0.80 cfs. The decreed place of use consists of the following, 13S, 26E, SEC 13, N½SW¼, and SE¼NE¼. Simplot owns and has claimed the NWSW and the other two 40-acre tracts were claimed and eventually decreed to A.D. Nye at 0.53 cfs.

Rate The rate per 40-acre tract is $0.80\text{cfs}/3 \text{ tracts} = 0.266 \text{ cfs/tract}$.
Recommendations;

43-251A	A.D. Nye	0.53 cfs
43-13212	<u>Simplot</u>	<u>0.27 cfs</u>
	total	0.80 cfs

P/U The NWSW contains a two-acre farmstead in the southeast corner of that tract. I found **36 irrigated acres** within that tract.

P/D The point of diversion is shared with Ted Higley (right 43-13031). No other rights are recognized from this point of diversion.