

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1433

This Lease Contract ("**Lease**") is between the Idaho Water Resource Board ("**Board**"), and

LESSOR: J R SIMPLOT CO
C/O JAMES B ALDERMAN
PO BOX 27
BOISE, ID 83707-0027

RECEIVED

NOV 15 2021

DEPARTMENT OF
WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on August 26, 2021.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)
35-4189	11/14/1960	GROUND WATER	0.84	609
Combined Lease Totals			0.84	609

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2021 to December 31, 2022. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

WATER SUPPLY BANK LEASE CONTRACT No. 1433

5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1433

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: J R SIMPLOT CO
C/O JAMES B ALDERMAN
PO BOX 27
BOISE, ID 83707-0027

By 
Title James B. Alderman, Senior Vice President and Secretary
Date 11-5-2021

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 11/30/21

Lease approved by IDWR 

Date 11/30/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1433

ATTACHMENT A WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 35-4189

GROUND WATER NESENE Sec. 33 Twp 05S Rge 31E BINGHAM County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
35-4189	COMMERCIAL	01/01	to	12/31	0.84 cfs	609 AF
Totals:					0.84 cfs	609 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: COMMERCIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	30E	1	C	C	C	C									C	C	C	C	
			L1	L2															
05S	30E	12	C	C	C	C									C			C	
05S	31E	5									C	C	C	C					
05S	31E	6	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
05S	31E	7	C	C	C	C	C	C	C	C	C	C	C	C					
05S	31E	8					C	C	C	C	C			C					
05S	31E	27													C	C	C	C	
05S	31E	33	C			C													
05S	31E	34	C	C	C		C	C	C	C									
05S	31E	35									C			C	C	C	C	C	

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

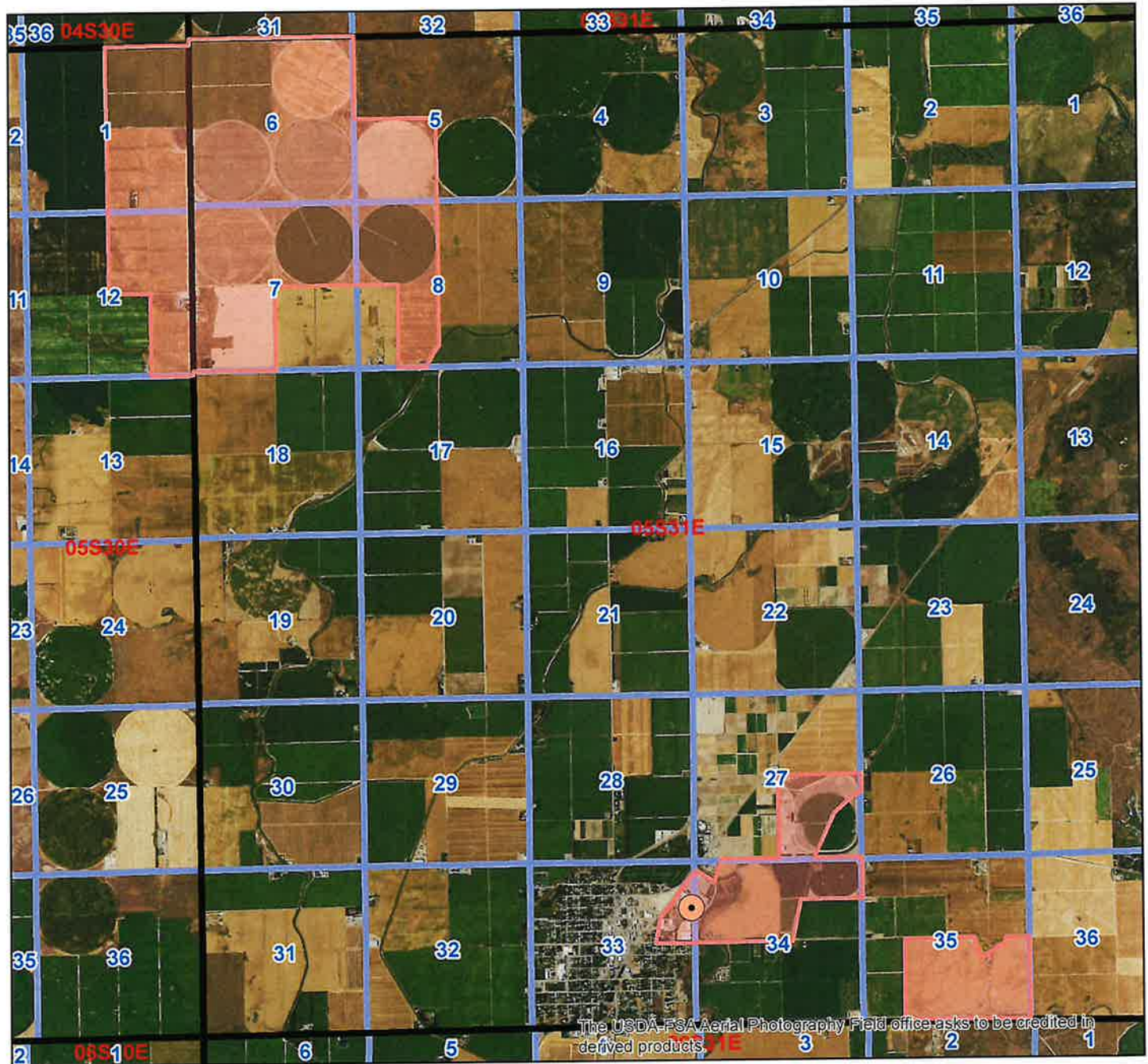
WATER SUPPLY BANK LEASE CONTRACT No. 1433

6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Commercial use is for a potato processing plant
13. The place of commercial use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this approval for commercial use shall not be used for irrigation unless the water is first used in the commercial facility as authorized by this water right.
14. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.
15. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
16. The unleased extent of water use authorized under water right 35-4189 is limited to 0.94 cfs and 679.5 af for commercial purposes, and 436 af for irrigation purposes using commercial waste water.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1433

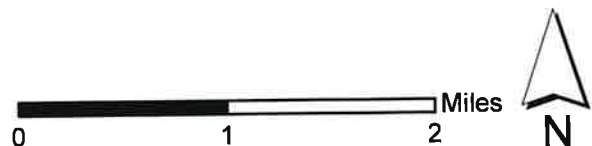
35-4189
Effective until December 31, 2022

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



The USDA-FSA Aerial Photography Field office asks to be credited in derived products.

- Approved Lease Point of Diversion
- Approved Lease Place of Use
- Township/Range
- Sections



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

AUG 26 2021

DEPARTMENT OF
WATER RESOURCES

APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

Designated Applicant J. R. Simplot Company

(Select one owner – see item 1A on the application)

Water Right No. 35-4189

(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☒ No ☐

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Applications that do not meet the minimum requirements will not be processed and may be returned or denied.**

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.

☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.

☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

1A ☐ ☒ Signatures and contact information for *all owners* of the water right to be leased or sold on this application.

1B ☒ ☐ An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.

1C ☒ ☐ *Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).

1D ☒ ☐ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.

2 ☐ ☒ Description of a water right portion offered to the Water Supply Bank.

3 ☐ ☒ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.

4A ☒ ☐ Written consent from irrigation district or water delivery company.

4G ☒ ☐ Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$ 250-Received By: KMDate Received: 8-26-21Receipt # C110803W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

2130

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant J. R. Simplot Company

Mailing Address P. O. Box 27 Boise Idaho 83707
Street City State Zip Code

Email Address vic.conrad@simplot.com Phone Number 208-389-7359

- ☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

- ☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☒ No ☐
If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☐ No ☒
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

- ☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

- ☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

- ☐ The full water right is being offered to the Bank.

OR

- ☒ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, complete Attachment 2.

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map Attachment 3.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).
If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to [Section 42-108, Idaho Code](#) and [IDAPA WSB Rule 37.02.03.25.02e](#).
- B. Please provide a description of the current water diversion and delivery system.
Well, pump, underground pipelines to commercial place of use.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. There are no other water rights for the commercial use leased to the water supply bank pursuant to this application.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☐
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. The places of commercial use ("c") shown on the attached map will not receive water diverted under 35-4189 during 2016.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. Same portion of Water Right 35-4189 was formerly Leased to the Water Supply Bank and Rented from the Water Supply Bank.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
If yes, describe. Yes ☐ No ☒

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?

If lease, specify the years when the use of water will be suspended: 2021 to 2022 (maximum lease period 5 calendar years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
Current rental rate. _____

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.



Signature of Designated Applicant
Senior Vice President and Secretary

James B. Alderman

Printed Name

8-24-2021

Date

Signature of Authorized Representative

Printed Name

Date

Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

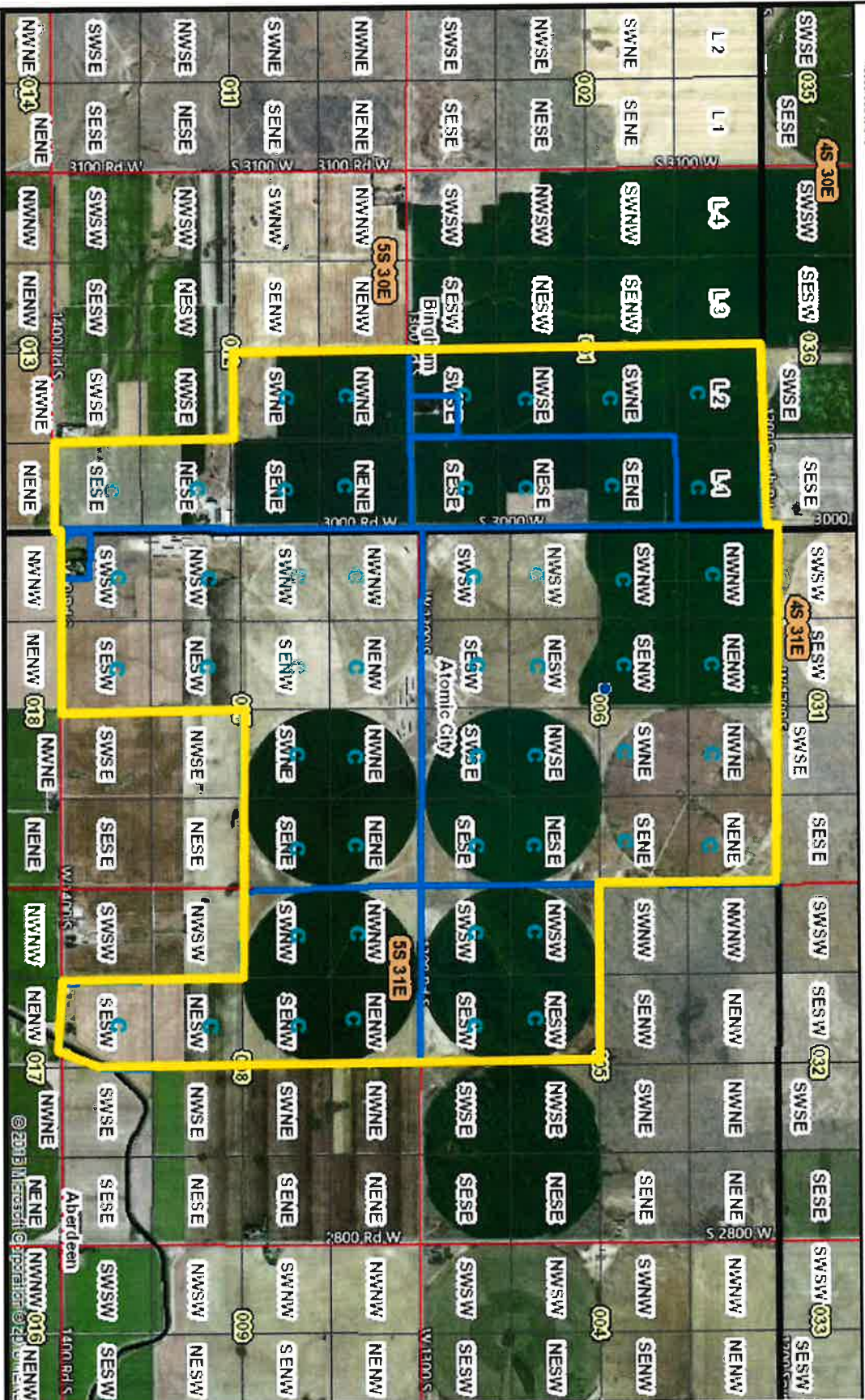
1. <u>Water Right Number</u>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>35-4189</u>	<u>Commerical</u>	<u>0.84</u>	<u>609.2</u>	<u>N/A</u>
	Total Amounts:	<u>0.84</u>	<u>609.2</u>	<u>N/A</u>

2. Source of water Groundwater tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
5S	31E	33		NE	SE	NE	Bingham

Place of Commercial Use (36-4189) Leased to Water Supply Bank



Place of Commercial Use Leased to Water Supply Bank





IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

December 2, 2021

JR SIMPLOT CO
1099 W FRONT ST
PO BOX 27
BOISE, ID 83707-0027

**RE: WATER SUPPLY BANK LEASE CONTRACT 1433
FOR WATER RIGHTS 35-4189**

Dear Lessor:

Water right **35-4189** was leased into the Water Supply Bank (Bank) as of January 1, 2021, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2022**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure: Executed Lease Contract



J.R. Simplot Company
P.O. Box 27, Boise, Idaho
83707 0027

RECEIVED

NOV 15 2021

DEPARTMENT OF
WATER RESOURCES

1099 West Front Street
Boise, Idaho 83702

Vic.conrad@simplot.com
208 780 7359 Business
208 780 7333 Fax

November 9, 2021

Amanda Johnson-Veibell
For Water Supply Bank
State of Idaho
Department of Water Resources
322 E. Front Street, Suite 648
P. O. Box 83702
Boise, Idaho 83702-0098

**Re: Water Supply Bank Lease Contract 1433 and Related Water Supply Bank
Rental Agreements 583 and 584.**

Dear Ms. Johnson-Veibell:

Enclosed are the partially executed duplicate originals of the above referenced Contract and a partially executed original of each Agreement. Also enclosed are two checks (1 for \$8.00 and the other for \$30.00) to cover the rental due under the Rental Agreements.

Please arrange for the Contract and Rental Agreements to be executed by the Idaho Water Resource Board and IDWR, then return copies of the fully executed Contract and Rental Agreements to me.

Sincerely,

Vic Conrad
Land, Water & Asset Recovery

Enclosure





IDAHO DEPARTMENT OF

WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

October 27, 2021

J R SIMPLOT CO
C/O JAMES B ALDERMAN
PO BOX 27
BOISE, ID 83707-0027

**RE: APPLICATION TO LEASE WATER RIGHTS 35-4189 TO THE WATER SUPPLY BANK
CONTRACT 1433**

******TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The right will automatically be released from the Bank on **December 31, 2022**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:
"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

From: Jordan, Blake <Blake.Jordan@idwr.idaho.gov>
Sent: Tuesday, September 14, 2021 1:01 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>
Cc: Bank <Bank@idwr.idaho.gov>
Subject: RE: WSB Lease/Rental Applications 2130, 2131 and 2141 for JR Simplot

Hi Remington,
I have no issues with lease and rentals

Blake

Blake Jordan || Water Rights Supervisor



IDAHO DEPARTMENT OF
WATER RESOURCES

900 N Skyline Dr. Ste A
Idaho Falls, ID 83402
208-497-3777

From: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Sent: Tuesday, September 14, 2021 11:52 AM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: RE: WSB Lease/Rental Applications 2130, 2131 and 2141 for JR Simplot

I don't have any concerns or comments about the proposed WSB lease and rental.

James

From: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Sent: Tuesday, September 14, 2021 11:47 AM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>; Jordan, Blake <Blake.Jordan@idwr.idaho.gov>
Cc: Bank <Bank@idwr.idaho.gov>
Subject: WSB Lease/Rental Applications 2130, 2131 and 2141 for JR Simplot

James, Blake,

The Bank recently received a lease proposal (application 2130) for a portion of water right 35-4189, so that the leased portions could be rented through rental applications 2131 and 2141, to offset curtailment orders for Simplot's water rights 35-8114 and 35-8162.

The lease and rental review memos, maps and draft approvals are attached to this email. On behalf of WD 120 and Eastern Region, please advise if you have any questions, comments or concerns about these WSB transactions.

Thank you,

Remington

MEMORANDUM FOR CONTRACT # 1433

To: Water Supply Bank Lease Application 2130
From: Remington Buyer
Date: September 7, 2021
Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: On August 26th, 2021, IDWR received from the JR Simplot Company (Simplot) lease/rental applications for Eastern Snake River Plain Aquifer (ESPA) ground water right 35-4189, a portion of which is proposed to be leased to the Bank, to supplement (replace/mitigate for) commercial and industrial water uses authorized under water rights 35-8114 and 35-8162, which were recently curtailed under an August 4th, 2021 order of the Director, per the Surface Water Coalition (SWC) Delivery Call (Docket #CM-DC-2010-001). Because Simplot is not a member of a local ground water district, and because water rights 35-8114 and 35-8162 are junior the June 14th, 1977 priority date described in the curtailment order, they do not have safe harbor from the SWC delivery call, and they must curtail diversions and uses of ground water under the rights. The rentals effectively mitigate for the curtailment order. This review memo pertains to the lease application for 35-4189.

Water right 35-4189 authorizes diversions of ESPA ground water for commercial and irrigation uses. Per the Snake River Basin Adjudication (SRBA) claim submitted by Simplot in 1983, ground water was diverted under the right for use in a commercial potato processing facility, after which, waste water used for potato processing purposes was disposed of through land applied irrigation practices on 109 acres of land adjacent the facility. In 2006, IDWR approved a transfer which increased the place of use where land-applied waste water could be disposed of through irrigation purposes, however the transfer only specified this area as place of use for commercial purposes. Hence, the irrigation use explicitly authorized under 35-4189 appears to be supplemental to a primary commercial use, and the entire commercial place of use can be associated with irrigation via land-application of waste water.

Per information in a 2016 lease application, the potato processing facility was shut down in 2015, after which, the commercial portion of the water right was leased into the Bank. It is unclear exactly why the supplemental irrigation use authorized under 35-4189 was not also leased into the Bank in 2016. Notes in the 2016 review memo suggest that, because the irrigation place of use was also authorized to be irrigated by surface water from the Aberdeen-Springfield Canal Company, it might not have been considered necessary (or desirable?) to lease the irrigation use.

WMIS data from 2011 through 2015 indicates that the minimum, maximum and average annual diversion volume accomplished during those five years was 26.5 af, 672.4 af and 490.4 af, respectively. Water District 120's five-year average diversion volume was calculated to be 624.2 af. The portion of the commercial use leased in 2016 was eventually based off the Water District 120 five year average diversion volume, and, because the applicant requested a hold back of 15 af during the term of the lease, the actual volume leased to the Bank, and protected from forfeiture in 2016, was 609.2 af ($624.2 - 15 = 609.2$). For this 2021 lease, the applicant has again proposed a lease of 609.2 af.*

AUTHORITY TO FILE: The property where water right 35-4189 is authorized to be used is owned by Simplot and the lease application is signed by James Alderman, Senior Vice President of the Simplot Company. No concerns about authority to file.

* 609.2 af was rounded to 609 af for contract 1433 per Application Processing Memo #6

WATER RIGHT VALIDITY: Water right 35-4189 is valid. No water has been diverted for commercial and supplemental irrigation purposes during the past four years (2017-2020), but a portion of the water right was protected from forfeiture through non-use via a lease to the Bank in 2016. It appears only 26.5 af of water was diverted in 2015. Hence, within the last five years, the greatest extent of water use actually put to beneficial use was 26.5 af, and the greatest extent of water use protected from forfeiture through non-use was 609.2 af. Therefore, 609.2 af of commercial use remains valid and available for lease in 2021. The unleased extent of the water right 0.94 cfs and 679.5 af (for commercial purposes) and 436 af (for irrigation from commercially used waste water) may have become subject to forfeiture through non-use during the past five years.

INJURY TO OTHER WATER RIGHTS: No injury is apparent through this lease.

ENLARGEMENT OF USE: This application proposes a lease only of commercial water uses, and the supplemental irrigation uses is not proposed for lease. Because the irrigation use is supplemental to a primary commercial water use, it does not constitute an enlargement of water right 35-4189 for the commercial use to be leased into the Bank without the supplemental irrigation use. Further, although the supplemental irrigation use could be leased into the Bank through this proposal, the applicant has not requested this, and it is not being required.

LOCAL PUBLIC INTEREST: staff are not aware of any information that indicates this rental is contrary to or inconsistent with any local public interests.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: Commercial use is a beneficial use. A diversion rate and diversion volume of 0.84 cfs and 609.2 af will be leased into the Bank.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: Review comments were requested from IDWR's Southern Region and Water District 120 on September 14th, 2021.

WATER SUPPLY BANK RECOMMENDATION: Staff recommend this rental be approved.



RECEIVED

AUG 26 2021
DEPARTMENT OF
WATER RESOURCES

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P.O. Box 27, Boise, Idaho
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Boise, Idaho 83702

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208 780 7359 Business
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August 24, 2021

Remington Buyer
Water Supply Bank
State of Idaho
Department of Water Resources
322 East Front Street
P. O. Box 83720
Boise, ID 83720-0098

Re: Application to Lease Water Right 35-4189 to the Water Supply Bank and Related Rental Applications.

Dear Remington:

Enclosed for filing is an application to Lease 609.2 acre feet under water right 35-4189 to the Water Supply Bank. A check in the amount of \$250.00 is also enclosed to cover the fee for filing the Lease application.

In addition, I am enclosing a Water Supply Bank Rental Application for 16 acre feet per year from water right 35-4189 for use in Simplot's operation located in Moreland, Idaho and a Water Supply Bank Rental Application for 4 acre feet per year from water right 35-4189 for use in Simplot's operation near Osgood, Idaho.

The water rights for Moreland (35-8114) and Osgood (35-8162) were included in a Stipulation and Mitigation Plan filed with IDWR by Simplot, Basic American Foods and Lamb-Weston together with members of the Surface Water Coalition in 2007. Processing of the Mitigation Plan was delayed until 2014 when it was ultimately suspended. Effort is underway to resume the processing of that Mitigation Plan.

Water right nos. 35-8114 and 35-8162 were included on the August 4, 2021 Order Curtailing Groundwater Rights with Priority Dates Junior to June 14, 1977 in response to the Surface Water Coalition Delivery Call. Pending the outcome of the decision to cover the water use under the 2007 Mitigation Plan, the enclosed applications are an alternative to conforming to the Director's August 4, 2021 Order and allowing for Simplot to continue its operations in Moreland and Osgood.

Sincerely,

Vic Conrad
Land, Water & Asset Recovery

Enclosure

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