

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 83876**

This is to certify that: J R SIMPLOT CO
C/O JAMES B ALDERMAN
PO BOX 27
BOISE, ID 83707-0027

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-10034	WR/DECREED	3/17/1983	8.830 cfs	N/A	N/A	933.0	GROUND WATER, WASTE WATER
63-2731	WR/DECREED	11/4/1948	2.370 cfs	1551.3 af	N/A	N/A	GROUND WATER
63-4968	WR/DECREED	1/1/1942	0.670 cfs	438.6 af	N/A	N/A	GROUND WATER
63-5036	WR/DECREED	3/10/1943	2.670 cfs	1747.7 af	133.5	933.0	GROUND WATER
63-5038	WR/DECREED	7/20/1944	1.340 cfs	877.1 af	67.0	933.0	GROUND WATER
63-5039	WR/DECREED	9/15/1947	1.780 cfs	1165.1 af	89.0	933.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-10034	NO	NO	YES	NO	NO	NO
63-2731	NO	NO	YES	NO	NO	NO
63-4968	NO	NO	YES	NO	NO	NO
63-5036	NO	NO	YES	NO	NO	NO
63-5038	NO	NO	YES	NO	NO	NO
63-5039	NO	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-10034	63-10034	8.830 cfs	N/A	532.0	933.0	N/A	N/A	N/A	N/A	N/A
63-2731	63-2731	2.370 cfs	1551.3 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
63-4968	63-4968	0.670 cfs	438.6 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
63-5036	63-5036	2.670 cfs	1747.7 af	133.5	933.0	N/A	N/A	N/A	N/A	N/A
63-5038	63-5038	1.340 cfs	877.1 af	67.0	933.0	N/A	N/A	N/A	N/A	N/A
63-5039	63-5039	1.780 cfs	1165.1 af	89.0	933.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		12.480 cfs	4477.0 af	N/A	N/A		N/A	N/A	N/A	N/A

SUPPORT DATA

IN FILE # 63-2731

Transfer No. 83876

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 83876

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 15 day of September, 2020.

Patricia Wiley
for, Chief, Water Allocation Bureau



WATER RIGHT NO. 63-2731**As Modified by Transfer No. 83876**

In accordance with the approval of Transfer No. 83876, Water Right No. 63-2731 is now described as follows:

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

Priority Date: 11/4/1948

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
INDUSTRIAL	01/01	to 12/31	2.370 cfs	1551.3 af
			2.370 cfs	1551.3 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSE	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	SESW	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	L8 (SWSW)	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	SENE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NESE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NESW	Sec 20 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSW	Sec 20 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSW	Sec 20 Twp 04N Rge 03W CANYON County

PLACE OF USE: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	7											X	X					
													L6	L7					
04N	03W	17									X	X	X	X					
											L7	L6							
04N	03W	18		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
				L3	L3	L2	L4	L5	L6			L7	L8						0
04N	03W	19	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
								L1	L2			L3	L4						0
04N	03W	20					X	X	X	X	X	X	X	X	X	X	X	X	
04N	03W	29	X	X	X	X	X	X	X	X									
																			0
04N	03W	30	X	X															
04N	04W	12													X			X	
															L10			L10	
04N	04W	13	X	X	X	X			X	X	X	X	X	X	X	X	X	X	
04N	04W	14												X			X		
04N	04W	23			X		X			X									
04N	04W	24	X	X	X	X	X								X	X			

WATER RIGHT NO. 63-2731
As Modified by Transfer No. 83876

CONDITIONS OF APPROVAL

1. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
2. Rights 63-4968, 63-5036, 63-5038, 63-5039, 63-2731, 63-5037, 63-21537, 63-21541, and 63-7678 when combined shall not exceed a total diversion rate of 12.48 cfs, a total annual maximum diversion volume of 5779.7 af at the field headgate.
3. The industrial place of use authorized by this right includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this right for industrial purposes shall not be used for irrigation unless the water is first used in the industrial facility as authorized by this water right.
4. Industrial use is for a food processing plant.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-4968**As Modified by Transfer No. 83876**

In accordance with the approval of Transfer No. 83876, Water Right No. 63-4968 is now described as follows:

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

Priority Date: 1/1/1942

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
INDUSTRIAL	01/01	to 12/31	0.670 cfs	438.6 af
			0.670 cfs	438.6 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSE	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	SESW	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	L8 (SWSW)	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	SENE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NESE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NESW	Sec 20 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSW	Sec 20 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSW	Sec 20 Twp 04N Rge 03W CANYON County

PLACE OF USE: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	7											X	X					
													L 6	L 7					
04N	03W	17									X	X	X	X					
											L 7	L 6							
04N	03W	18		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
				L 3	L 3	L 2	L 4	L 5	L 6				L 7	L 8					0
04N	03W	19	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
								L 1	L 2				L 3	L 4					0
04N	03W	20					X	X	X	X	X	X	X	X	X	X	X	X	
04N	03W	29	X	X	X	X	X	X	X	X									
																			0
04N	03W	30	X	X															
04N	04W	12													X			X	
															L 10			L 10	
04N	04W	13	X	X	X	X			X	X	X	X	X	X	X	X	X	X	
04N	04W	14												X			X	X	
04N	04W	23			X		X			X									
04N	04W	24	X	X	X	X	X								X	X			

WATER RIGHT NO. 63-4968

As Modified by Transfer No. 83876

CONDITIONS OF APPROVAL

1. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
2. Rights 63-4968, 63-5036, 63-5038, 63-5039, 63-2731, 63-5037, 63-21537, 63-21541, and 63-7678 when combined shall not exceed a total diversion rate of 12.48 cfs, a total annual maximum diversion volume of 5779.7 af at the field headgate.
3. The industrial place of use authorized by this right includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this right shall not be used for irrigation unless the water is first used in the industrial facility as authorized by this water right.
4. Industrial use is for a food processing plant.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-5036**As Modified by Transfer No. 83876**

In accordance with the approval of Transfer No. 83876, Water Right No. 63-5036 is now described as follows:

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

Priority Date: 3/10/1943

Source: GROUND WATER

BENEFICIAL USE

INDUSTRIAL
IRRIGATION

From

01/01
03/01

to 12/31
to 11/15

Diversion Rate

2.670 cfs
2.670 cfs
2.670 cfs

Diversion Volume

1146.9 af
600.8 af
1747.7 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER
GROUND WATER
GROUND WATER
GROUND WATER
GROUND WATER
GROUND WATER
GROUND WATER
GROUND WATER
GROUND WATER

NWSE
SESW
L8 (SWSW)
SENE
NESE
NWSE
NESW
NWSW
NWSW

Sec 18 Twp 04N Rge 03W CANYON County
Sec 18 Twp 04N Rge 03W CANYON County
Sec 18 Twp 04N Rge 03W CANYON County
Sec 19 Twp 04N Rge 03W CANYON County
Sec 19 Twp 04N Rge 03W CANYON County
Sec 19 Twp 04N Rge 03W CANYON County
Sec 20 Twp 04N Rge 03W CANYON County
Sec 20 Twp 04N Rge 03W CANYON County
Sec 20 Twp 04N Rge 03W CANYON County

PLACE OF USE: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	7											X	X					
													L 6	L 7					
04N	03W	17									X	X	X	X					
											L 7	L 6							
04N	03W	18		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
				L 3	L 3	L 2	L 4	L 5	L 6		L 7	L 8							0
04N	03W	19	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
								L 1	L 2		L 3	L 4							0
04N	03W	20					X	X	X	X	X	X	X	X	X	X	X	X	
04N	03W	29	X	X	X	X	X	X	X	X									0
04N	03W	30	X	X															
04N	04W	12													X			X	
															L 10			L 10	
04N	04W	13	X	X	X	X			X	X	X	X	X	X	X	X	X	X	
04N	04W	14												X			X		
04N	04W	23			X		X			X									
04N	04W	24	X	X	X	X	X								X	X			

WATER RIGHT NO. 63-5036
As Modified by Transfer No. 83876

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	7											7.0	3.0					10.0
													L 6	L 7					
04N	03W	17									9.0	5.0	21.0	34.0					69.0
											L 7	L 6							
04N	03W	18		14.0			31.0	35.0	29.0	33.0	3.0				1.0	12.0		26.0	184.0
				L 3			L 4	L 5	L 6										
04N	03W	19	30.0				24.0	25.0	31.0	25.0									135.0
								L 1	L 2										
04N	03W	20					36.0	20.0	25.0	32.0									113.0
04N	04W	12													1.0			1.0	2.0
04N	04W	12													2.0			31.0	33.0
															L 10			L 10	
04N	04W	13	34.0	35.0	31.0	33.0			30.0	26.0	34.0	28.0	27.0	30.0			33.0	30.0	371.0
04N	04W	24	7.0			9.0													16.0

Right Acre Limit: 133.5

POU Total Acres: 933.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 133.5 acres within the authorized place of use in a single irrigation season.
2. Rights 63-4968, 63-5036, 63-5038, 63-5039, 63-2731, 63-5037, 63-21537, 63-21541, and 63-7678 when combined shall not exceed a total diversion rate of 12.48 cfs, a total annual maximum diversion volume of 5779.7 af at the field headgate.
3. Rights 63-5036, 63-5037, 63-5038, 63-5039 and 63-10034 when combined shall not exceed the irrigation of 933 acres.
4. Rights 63-290, 63-2239, 63-2241, 63-2386, 63-2425, 63-2657, 63-5036, 63-5037, 63-5038, 63-5039, and 63-10034 when combined shall not exceed the irrigation of 1299 acres.
5. This right when combined with all other irrigation rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 601.0 af at the field headgate for the place of use.
6. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
7. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
8. The industrial place of use authorized by this right includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this right for industrial purposes shall not be used for irrigation unless the water is first used in the industrial facility as authorized by this water right.

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WATER RIGHT NO. 63-5036
As Modified by Transfer No. 83876

CONDITIONS OF APPROVAL

9. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.
10. Industrial use is for a food processing plant.
11. Irrigation use is for the land application of wastewater diverted and used for industrial purposes pursuant to ground water rights 63-2731, 63-4968, 63-5036, 63-5038, 63-5039, 63-10034 and surface water right 63-2239.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-5038**As Modified by Transfer No. 83876**

In accordance with the approval of Transfer No. 83876, Water Right No. 63-5038 is now described as follows:

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

Priority Date: 7/20/1944

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
INDUSTRIAL	01/01	to 12/31	1.340 cfs	575.6 af
IRRIGATION	03/01	to 11/15	1.340 cfs	301.5 af
			1.340 cfs	877.1 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSE	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	SESW	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	L8 (SWSW)	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	SENE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NESE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NESW	Sec 20 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSW	Sec 20 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSW	Sec 20 Twp 04N Rge 03W CANYON County

PLACE OF USE: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	7											X	X					
													L 6	L 7					
04N	03W	17									X	X	X	X					
											L 7	L 6							
04N	03W	18		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
				L 3	L 3	L 2	L 4	L 5	L 6			L 7	L 8						0
04N	03W	19	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
								L 1	L 2			L 3	L 4						0
04N	03W	20					X	X	X	X	X	X	X	X	X	X	X	X	
04N	03W	29	X	X	X	X	X	X	X	X									0
04N	03W	30	X	X															
04N	04W	12													X			X	
															L 10			L 10	
04N	04W	13	X	X	X	X			X	X	X	X	X	X	X	X	X	X	
04N	04W	14												X			X		
04N	04W	23			X		X		X										
04N	04W	24	X	X	X	X	X								X	X			

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WATER RIGHT NO. 63-5038
As Modified by Transfer No. 83876

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	7											7.0	3.0					10.0
													L 6	L 7					
04N	03W	17									9.0	5.0	21.0	34.0					69.0
												L 7	L 6						
04N	03W	18		14.0			31.0	35.0	29.0	33.0	3.0				1.0	12.0		26.0	184.0
				L 3			L 4	L 5	L 6										
04N	03W	19	30.0				24.0	25.0	31.0	25.0									135.0
								L 1	L 2										
04N	03W	20					36.0	20.0	25.0	32.0									113.0
04N	04W	12													1.0			1.0	2.0
04N	04W	12													2.0			31.0	33.0
															L 10			L 10	
04N	04W	13	34.0	35.0	31.0	33.0			30.0	26.0	34.0	28.0	27.0	30.0			33.0	30.0	371.0
04N	04W	24	7.0			9.0													16.0

Right Acre Limit: 67.0

POU Total Acres: 933.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 67 acres within the authorized place of use in a single irrigation season.
2. Rights 63-4968, 63-5036, 63-5038, 63-5039, 63-2731, 63-5037, 63-21537, 63-21541, and 63-7678 when combined shall not exceed a total diversion rate of 12.48 cfs, a total annual maximum diversion volume of 5779.7 af at the field headgate.
3. Rights 63-5036, 63-5037, 63-5038, 63-5039 and 63-10034 when combined shall not exceed the irrigation of 933 acres.
4. Rights 63-290, 63-2239, 63-2241, 63-2386, 63-2425, 63-2657, 63-5036, 63-5037, 63-5038, 63-5039, and 63-10034 when combined shall not exceed the irrigation of 1299 acres.
5. This right when combined with all other irrigation rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 302.0 af at the field headgate for the place of use.
6. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
7. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
8. The industrial place of use authorized by this right includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this right for industrial purposes shall not be used for irrigation unless the water is first used in the industrial facility as authorized by this water right.

Transfer No. 83876

WATER RIGHT NO. 63-5038
As Modified by Transfer No. 83876

CONDITIONS OF APPROVAL

9. Industrial use is for a food processing plant.
10. Irrigation use is for the land application of wastewater diverted and used for industrial purposes pursuant to ground water rights 63-2731, 63-4968, 63-5036, 63-5038, 63-5039, 63-10034 and surface water right 63-2239.
11. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-5039**As Modified by Transfer No. 83876**

In accordance with the approval of Transfer No. 83876, Water Right No. 63-5039 is now described as follows:

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

Priority Date: 9/15/1947

Source: GROUND WATER

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
INDUSTRIAL	01/01	to 12/31	1.780 cfs	764.6 af
IRRIGATION	03/01	to 11/15	1.780 cfs	400.5 af
			1.780 cfs	1165.1 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSE	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	SESW	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	L8 (SWSW)	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	SENE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NESE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NESW	Sec 20 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSW	Sec 20 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSW	Sec 20 Twp 04N Rge 03W CANYON County

PLACE OF USE: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	7											X	X					
													L6	L7					
04N	03W	17									X	X	X	X					
											L7	L6							
04N	03W	18		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
				L3	L3	L2	L4	L5	L6			L7	L8						0
04N	03W	19	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
								L1	L2			L3	L4						0
04N	03W	20					X	X	X	X	X	X	X	X	X	X	X	X	
04N	03W	29	X	X	X	X	X	X	X	X									
																			0
04N	03W	30	X	X															
04N	04W	12													X			X	
															L10			L10	
04N	04W	13	X	X	X	X			X	X	X	X	X	X	X	X	X	X	
04N	04W	14												X			X		
04N	04W	23			X		X			X									
04N	04W	24	X	X	X	X	X								X	X			

WATER RIGHT NO. 63-5039
As Modified by Transfer No. 83876

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	7											7.0	3.0					10.0
													L 6	L 7					
04N	03W	17									9.0	5.0	21.0	34.0					69.0
											L 7	L 6							
04N	03W	18		14.0			31.0	35.0	29.0	33.0	3.0				1.0	12.0		26.0	184.0
				L 3			L 4	L 5	L 6										
04N	03W	19	30.0				24.0	25.0	31.0	25.0									135.0
							L 1	L 2											
04N	03W	20					36.0	20.0	25.0	32.0									113.0
04N	04W	12													1.0			1.0	2.0
04N	04W	12													2.0			31.0	33.0
															L 10			L 10	
04N	04W	13	34.0	35.0	31.0	33.0			30.0	26.0	34.0	28.0	27.0	30.0			33.0	30.0	371.0
04N	04W	24	7.0			9.0													16.0

Right Acre Limit: 89.0
POU Total Acres: 933.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 89 acres within the authorized place of use in a single irrigation season.
2. Rights 63-4968, 63-5036, 63-5038, 63-5039, 63-2731, 63-5037, 63-21537, 63-21541, and 63-7678 when combined shall not exceed a total diversion rate of 12.48 cfs, a total annual maximum diversion volume of 5779.7 af at the field headgate.
3. Rights 63-5036, 63-5037, 63-5038, 63-5039 and 63-10034 when combined shall not exceed the irrigation of 933 acres.
4. Rights 63-290, 63-2239, 63-2241, 63-2386, 63-2425, 63-2657, 63-5036, 63-5037, 63-5038, 63-5039, and 63-10034 when combined shall not exceed the irrigation of 1299 acres.
5. This right when combined with all other irrigation rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 401.0 af at the field headgate for the place of use.
6. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
7. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
8. The industrial place of use authorized by this right includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this right for industrial purposes shall not be used for irrigation unless the water is first used in the industrial facility as authorized by this water right.

WATER RIGHT NO. 63-5039
As Modified by Transfer No. 83876

CONDITIONS OF APPROVAL

9. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.
10. Industrial use is for a food processing plant.
11. Irrigation use is for the land application of wastewater diverted and used for industrial purposes pursuant to ground water rights 63-2731, 63-4968, 63-5036, 63-5038, 63-5039, 63-10034 and surface water right 63-2239.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-10034**As Modified by Transfer No. 83876**

In accordance with the approval of Transfer No. 83876, Water Right No. 63-10034 is now described as follows:

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

Priority Date: 3/17/1983

Source: WASTE WATER
Source: GROUND WATER

BENEFICIAL USE

INDUSTRIAL
IRRIGATION

From

11/16
03/01

to

To

02/28
to 11/15

Diversion Rate

8.830 cfs
4.460 cfs
8.830 cfs

LOCATION OF POINT(S) OF DIVERSION

WASTE WATER	NWSE	Sec 18 Twp 04N Rge 03W CANYON County
GROUND WATER	SENE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NESE	Sec 19 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSE	Sec 19 Twp 04N Rge 03W CANYON County
WASTE WATER	NENW	Sec 20 Twp 04N Rge 03W CANYON County
GROUND WATER	NESW	Sec 20 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSW	Sec 20 Twp 04N Rge 03W CANYON County
GROUND WATER	NWSW	Sec 20 Twp 04N Rge 03W CANYON County

PLACE OF USE: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	7											X	X					
													L 6	L 7					
04N	03W	17									X	X	X	X					
											L 7	L 6							
04N	03W	18		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
				L 3	L 3	L 2	L 4	L 5	L 6			L 7	L 8						0
04N	03W	19	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
								L 1	L 2			L 3	L 4						0
04N	03W	20					X	X	X	X	X	X	X	X	X	X	X	X	
04N	03W	29	X	X	X	X	X	X	X	X									
																			0
04N	03W	30	X	X															
04N	04W	12													X			X	
															L 10			L 10	
04N	04W	13	X	X	X	X			X	X	X	X	X	X	X	X	X	X	
04N	04W	14												X			X		
04N	04W	23			X		X			X									
04N	04W	24	X	X	X	X	X								X	X			

Transfer No. 83876

WATER RIGHT NO. 63-10034
As Modified by Transfer No. 83876

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	7											5.6	2.0					7.6
													L 6	L 7					
04N	03W	17									8.5	4.5	21.0	35.0					69.0
											L 7	L 6							
04N	03W	18			14.0		32.0	37.0	29.0	33.0	4.1				1.1	12.0		26.0	188.2
					L 3		L 4	L 5	L 6										
04N	03W	19	30.0				24.0	24.0	31.0	25.0									134.0
								L 1	L 2										
04N	03W	20					35.0	20.0	26.0	33.0									114.0
04N	04W	12													2.2			31.0	33.2
															L 10			L 10	
04N	04W	13	34.0	35.0	31.0	33.0			30.0	26.0	34.0	28.0	27.0	30.0			33.0	30.0	371.0
04N	04W	24	7.0			9.0													16.0

Right Acre Limit: 532.0

POU Total Acres: 933.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 532 acres within the authorized place of use in a single irrigation season.
2. Rights 63-2239, 63-2731, 63-4968, 63-5036, 63-5038, 63-5039, and 63-10034 when combined shall not exceed a total diversion rate of 9.63 cfs and a total annual maximum diversion volume of 4477 af for industrial purposes.
3. Rights 63-2731, 63-4968, 63-5036, 63-5037, 63-5038, 63-5039, 63-7678, 63-10034, 63-21537, and 63-21541 when combined shall not exceed a total diversion rate of 12.48 cfs and a total annual maximum diversion volume of 8080 af.
4. Rights 63-5036, 63-5037, 63-5038, 63-5039 and 63-10034 when combined shall not exceed the irrigation of 933 acres.
5. Rights 63-290, 63-2239, 63-2241, 63-2386, 63-2425, 63-2657, 63-5036, 63-5037, 63-5038, 63-5039, and 63-10034 when combined shall not exceed the irrigation of 1299 acres.
6. This right when combined with all other irrigation rights shall provide no more than 4.5 afa per acre at the field headgate for the irrigation place of use.
7. The use of water for industrial purposes pursuant to this right shall not exceed a total annual diversion volume of 1839 af.
8. The diversion and use of water under this right for irrigation purposes shall not exceed the volume necessary to provide the difference between the surface water supply and 4.5 af per acre at the field headgate, up to a maximum total of 2300 af if no surface water is available.
9. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

Transfer No. 83876

WATER RIGHT NO. 63-10034
As Modified by Transfer No. 83876

CONDITIONS OF APPROVAL

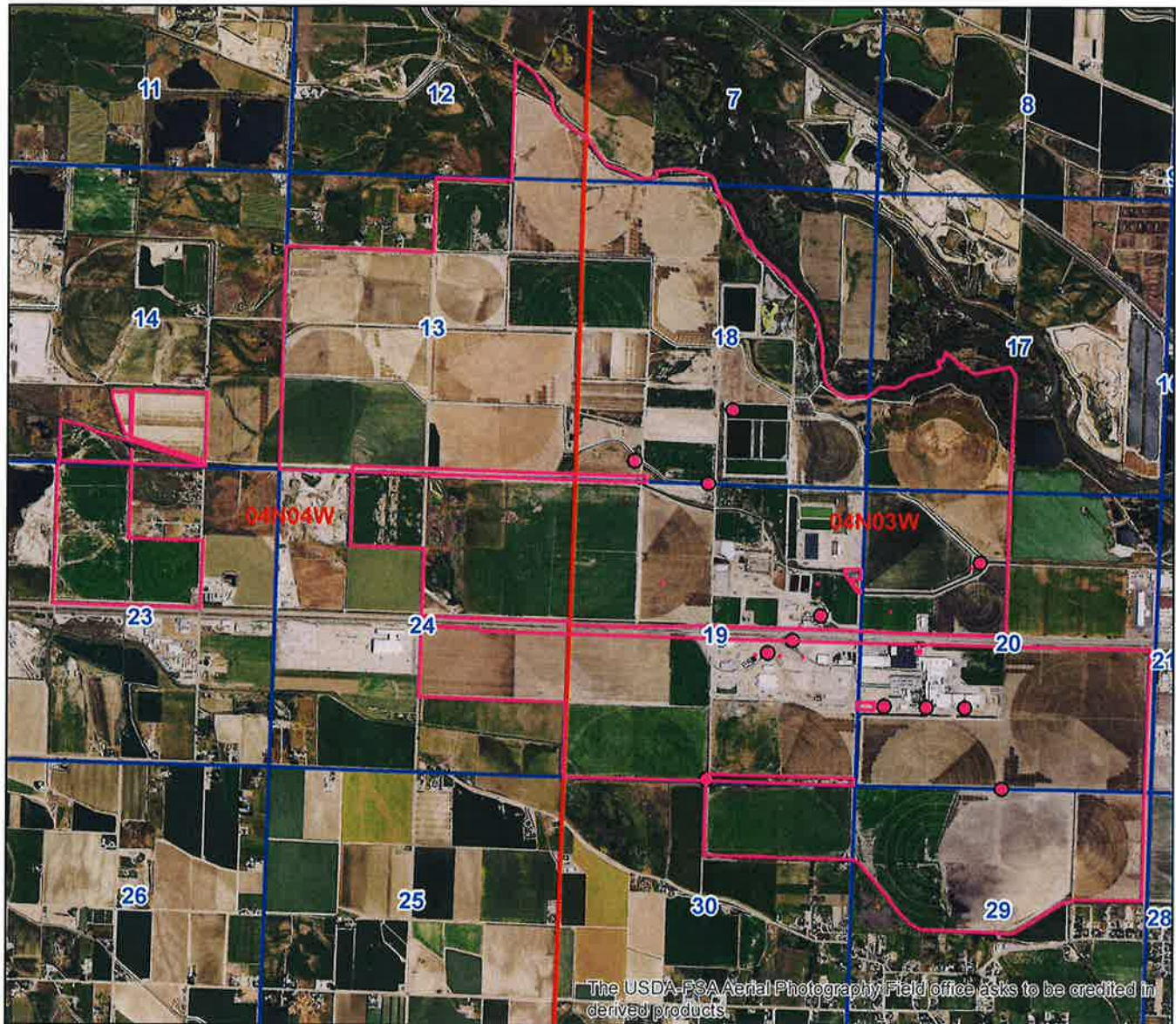
10. Industrial use is for a food processing plant.
11. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.
12. The industrial place of use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements.
13. Irrigation use is for the land application of wastewater diverted and used for industrial purposes pursuant to ground water rights 63-2731, 63-4968, 63-5036, 63-5038, 63-5039, 63-10034 and surface water right 63-2239.
14. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
15. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
16. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

State of Idaho
Department of Water Resources



Attachment to Transfer No. 83876

Water Right(s): 63-2731, 63-4968, 63-5036, 63-5038, 63-5039, & 63-10034

This map depicts the INDUSTRIAL place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



0 0.375 0.75 1.5 Miles

-  83876 Transfer POU
-  Transfer POD
-  Township/Range
-  Sections





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

September 15, 2020

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

Re: Transfer No: 83876

Water Right No(s): 63-2731, 63-4968, 63-5036, 63-5038, 63-5039, 63-10034

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Rights. Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Rights is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

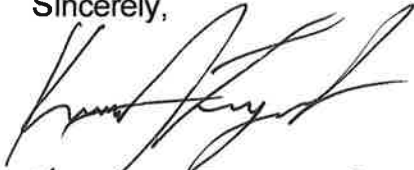
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 334-2190

Sincerely,

A handwritten signature in black ink, appearing to read "Keesie Thorneycroft". The signature is fluid and cursive, with a large initial "K" and a long, sweeping underline.

For: Patrick Kelly
Water Rights Supervisor

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2020 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No: 83876

Water Right No(s): 63-2731, 63-4968, 63-5036, 63-5038, 63-5039, 63-10034

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

SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706-6660

A handwritten signature in black ink, appearing to read 'Kensie Thorneycroft', is written over a horizontal line.

Kensie Thorneycroft
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

TO: Transfer No. 83876 File

FROM: Justin Shearer

DATE: 8/19/20

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to update the authorized industrial place of use for water rights 63-2731, 63-4968, 63-5036, 63-5038, 63-5039, and 63-10034 to reflect recent expansions to their food processing plant site and waste water reuse areas. The transfer modifies the food processing (Industrial) place of use description and updates the land description for the effluent disposal site. The historical industrial food processing beneficial use moved one ¼ ¼ because the old food processing plant was destroyed and removed and a new food processing plant was constructed to replace the old plant on the adjacent ¼ ¼ to the east.

The site is located roughly 1.3 miles west of the Caldwell Municipal Airport at the intersection of Dixie Road and the Wilder Highway.

Summary of Information Submitted

Authority to File: James B. Alderman filed and signed the transfer application. He is the Senior Vice President and Secretary and has authority to file on behalf of J.R. Simplot Co.

Water Right Validity:

The decree's for water right no.'s 63-2731, 63-4968, 63-5036, 63-5038, 63-5039 were issued on 6/4/2009 and the decree for 63-10034 was issued on 6/1/2012. These rights are presumed to be valid since beneficial use has occurred within the last five years. Beneficial use confirmed by department aerial imagery, and landsat images that show evidence of irrigation and industrial facilities taking/in place. Evidence of beneficial use does not need to be added to the file as it is an IDWR product available to other staff.

Overlap Analysis:

Current POD overlap exists between the following rights: Industrial rights 63-2731, 63-4968 rights 63-5036, 63-5038, 63-5039, are all rights used for food processing plant. Irrigation right 63-5037, also shares the same wells. Additionally, stockwater rights 63-21537, 63-21541, and 63-7678 share the same wells. There are no proposed changes to the POD's for any of the rights involved in this transfer. Current POU overlap exists with the rights involved in this transfer as well as water rights 63-2239 and 63-2240 that authorize industrial use from small separate systems for dust control purposes. Proposed POU for the industrial use will maintain the same overlap as existing. The irrigation POU is not proposed for any changes in this transfer. Existing combined use and acre limits will be carried over. As a result, all industrial rights for the food processing plant are included to the transfer, no other rights should be considered. Overlap should not be considered a concern as a result of this transfer.

Injury to Other Water Rights:

None anticipated. The new industrial POU will simply allow them to spread the effluent waste water from the industrial plant across more area. This will not increase the amount of water being diverted for industrial purposes. Because the change in POU will not be changing the amount of water sought by this right, there is no evidence to suggest that any injury to other rights will occur as a result of this transfer. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. For these reasons, injury to other water rights is not likely as a result of this transfer.

Enlargement of Use:

The transfer does not propose a change in nature of use that would normally require a review of the historical beneficial use. Additionally, an application for transfer filed to provide for the disposal of wastewater, by land application on cultivated fields or other beneficial use disposing of the wastewater, resulting from use of water under non-irrigation uses such as dairy or other confined animal feeding operation, or "municipal" or "industrial" water rights where the use of water is considered to be fully consumptive, is not considered an enlargement of the commercial, municipal, or industrial water right. The transfer does not propose any change to the current authorized irrigation POU. For these reasons an enlargement of use is not anticipated as a result of this transfer.

Local Public Interest:

The application was advertised and no protests were received. The transfer application proposes beneficial use consistent with local public interest.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Shearer, Justin

From: Terry Scanlan <TScanlan@spfwater.com>
Sent: Tuesday, July 28, 2020 6:03 PM
To: Shearer, Justin
Cc: john.prigge@simplot.com; Miller, Nick; Kelly, Patrick; Conrad, Vic; Lori Graves
Subject: RE: Simplot Transfer 83876 Industrial Use

Hi Justin –

In response to your email below, we disagree that the transfer as proposed is an enlargement. This transfer simply modifies the food processing place of use description and updates the land description for the effluent disposal site.

In support of this position, we note the following.

1. Transfer Processing Memo 24 acknowledges that land application of industrial wastewater is not an enlargement. Specifically, Section 5d(9) says *Disposal of Waste Water. An application for transfer filed to provide for the disposal of wastewater, by land application on cultivated fields or other beneficial use disposing of the wastewater, resulting from use of water under non-irrigation uses such as a dairy or other confined animal feeding operation, or "municipal" or "industrial" water rights where the use of water is considered to be fully consumptive, is not considered an enlargement of the commercial, municipal, or industrial water right.*
2. The transfer does not propose a change in nature of use that would normally require a review of the historical beneficial use. Although we do not believe that the transfer will increase consumption, it is really a moot point because this is an industrial right and we are maintaining the original use (food processing) without an increase in diversion rate or volume.
3. We note that Transfer Processing Memo 24 section 5d(2) states *Beneficial Use. An application for transfer proposing to change the place of use or nature of use for all or part of a water right or water rights, which change would not result in an equivalent reduction in beneficial use under the original right(s), will be presumed to enlarge the water right(s).* The transfer does propose a change to the place of use because the old food processing plant was destroyed and removed and a new food processing plant was constructed to replace the old plant on the adjacent ¼ to the east. The historical industrial food processing beneficial use moved one ¼ east. The industrial site changed. If you compare Google Earth images from 2002 to images from 2018 you will see that while the overall site footprint has increased, the area of rooftops has decreased. If we had been required to describe the food processing by acre of rooftop, you would have seen a decrease in acres. Instead, the site has spread out. Just because there is more parking and open area, doesn't automatically lead to an enlargement of the industrial water rights.

Let us know if this response satisfies your concerns. If not, please identify specifically how the transfer enlarges the rights and we will seek a way to resolve the enlargement issue. Thanks.

Terry

From: Shearer, Justin <Justin.Shearer@idwr.idaho.gov>
Sent: Friday, July 17, 2020 3:04 PM
To: Lori Graves <LGraves@spfwater.com>
Cc: Terry Scanlan <TScanlan@spfwater.com>; john.prigge@simplot.com; Miller, Nick <Nick.Miller@idwr.idaho.gov>;

Kelly, Patrick <Patrick.Kelly@idwr.idaho.gov>

Subject: RE: Simplot Transfer 83876 Industrial Use

Good afternoon Lori & Terry,

I apologize for the delayed response in getting back to you in regards to potential enlargement for the proposed JR Simplot transfer. For any application for transfer, the department must determine whether the proposed change will enlarge the use of water under the water right(s). Enlargement will occur if the total diversion rate, annual diversion volume, *or extent of beneficial use exceeds historic beneficial use*. An application for transfer proposing to change the place of use for all or part of water right which change would not result in an equivalent reduction in beneficial use under the original right, will be presumed to enlarge the water right. I.e. the historic extent of beneficial use under the right must not be enlarged. Because the use is not non-consumptive, increasing the POU would therefore lead to an increase of historic consumptive use regardless of current diversions only being approximately 50% of authorized rate and volume.

Without further information the applicant should withdraw this application for transfer. Without additional information providing sufficient defense of enlargement the department would seek to deny/reject said transfer.

Respectfully,

Justin Shearer
Water Resource Agent, Sr.
(208)-334-2190

From: Lori Graves [<mailto:LGraves@spfwater.com>]

Sent: Friday, May 1, 2020 12:28 PM

To: Shearer, Justin <Justin.Shearer@idwr.idaho.gov>

Cc: Terry Scanlan <TScanlan@spfwater.com>; john.prigge@simplot.com

Subject: RE: Simplot Transfer 83876 Industrial Use

Justin,

In response to the Department's concern regarding enlargement, Terry provided the following response. Please let me know if you have any further questions. Thanks Justin.

Industrial water use is limited by the facility wastewater discharge/reuse permit which has become stricter with time. As a result, current wastewater discharge volume is less than historical discharge volumes. More recently, these discharge limitations have caused Simplot to implement a recycling system where a portion of the industrial wastewater is treated using reverse osmosis, further reducing freshwater diversions while allowing increased potato processing. Average production is currently 1780 gpm (4 cfs) and annual volume is approximately 4000 af, which are approximately 50% of authorized rate and volume."

From: Shearer, Justin <Justin.Shearer@idwr.idaho.gov>

Sent: Thursday, April 30, 2020 1:45 PM

To: Lori Graves <LGraves@spfwater.com>

Subject: Simplot Transfer 83876 Industrial Use

Hey Lori,

As we discussed over the phone, because the application proposes updating the POU to reflect recent expansion to plant, there is some concern for enlargement. Please show how the increased boundary for the industrial use POU does not increase historic beneficial use.

I would like to get this into the next round of advertising so we can get this approved in the next month, so a response within the next two weeks to this would be greatly appreciated and allow me address this concern so we can move forward.

Thanks and regards,

Justin Shearer
Water Resource Agent, Sr.
(208)-334-2190

29512 2014251

1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO

County of Canyon and Ada

) SS.

Sharon Jessen
of the State of Idaho, being of first
duly sworn, deposes and says:

RECEIVED

JUN 10 2020

WATER RESOURCES
WESTERN REGION

LEGAL NOTICE

NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
TRANSFER NO. 83876

J R SIMPLOT CO, C/O
JAMES B ALDERMAN PO

BOX 27, BOISE, ID 83707-
0027 has filed Application
No. 83876 for changes to
the following water rights
within CANYON County(s):
Right No(s). 63-10034, 63-
2731, 63-4968, 63-5036, 63-
5038, 63-5039; to see a full
description of these rights
and the proposed transfer,
please see:

<https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>

The purpose of the transfer is to change a portion of the above rights as follows: J.R. Simplot Company of 1099 W Front St., PO Box 27, Boise ID 83707 filed Application No. 83876 to transfer 6 water rights with 1942 through 1983 priority dates from ground water and waste water totaling 9.63 cfs. The purpose of the transfer is to update the authorized industrial place of use to reflect recent expansions to their food processing plant site and waste water reuse areas. Water will be used at the current place of use located roughly 1.3 miles west of the Caldwell Municipal Airport at the intersection of Dixie Road and the Wilder Highway.

For additional information concerning the property location, contact Western Region office at (208)334-2190. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 6/8/2020. The protestant must also send a copy of the protest to the applicant.


GARY SPACKMAN,
Director

May 21, 28, 2020

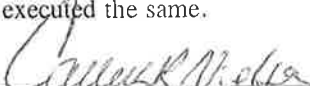
2014251

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the Counties of Canyon and Ada, State of Idaho; that the said newspaper is in general circulation in the said Counties of Canyon and Ada, and in the vicinity of Nampa, Caldwell, and Boise, and has been uninterruptedly published in said Counties during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:
05/21/2020 05/28/2020


Sharon Jessen
STATE OF IDAHO
County of Canyon and Ada)

On this 28th day of May in the year of 2020 before me a Notary Public, personally appeared. Sharon Jessen, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.


Notary Public for Idaho
My Commission expires 06/28/2023

