

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 414

This is to certify that:

J R SIMPLOT CO
1099 W FRONT ST PO BOX 27
BOISE, ID 83707

RECEIVED

APR 13 2020

DEPARTMENT OF
WATER RESOURCES

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
2-10471	2/25/1963	SNAKE RIVER	0.57	114	28.5	0.02	4.0
Combined Rental Totals			0.57	114	28.5	0.02	4.0

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2022. Use of rental water shall be authorized as of either the date this rental agreement takes effect or the first day of the rental season of use, in 2020, whichever occurs last.

Annual Rental Fee:

2020 - 2022: \$228.00 annually

The full fee for the rental of the above-described right(s) is \$228.00 per year for years 2020 - 2022. The rental fee includes an administrative fee of \$228.00 per year for years 2020 - 2022.

An annual payment shall be received by the Department on or before December 31 each year preceding the use of the rented water rights. The agreement will be void if payment is not received by the due date in a given year. Rental fees are non-refundable. To voluntarily terminate the agreement early, notify the Department in writing prior to the rental fee due date.

Total Water Use Authorized Under Rental Agreement

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate/Acre (CFS/AC)	Volume/Acre (AF/AC)
IRRIGATION	0.51	114	25.3	0.02	4.5
Combined Total	0.51	114	25.3	0.02	4.5

** The authorized water usage reflects a reduction from the water right elements rented, to account for difference in the headgate standard for irrigation.*

Detailed water right conditions are attached.

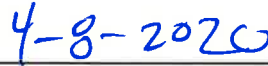
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 414

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:



Signature of Renter



Date

James B. Alderman

Printed Name

Senior Vice President and Secretary

Title

*Title required if signing on behalf of a company or organization or with power of attorney

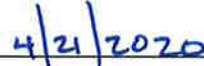
Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.



By

BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

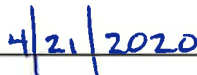
Date



Rental approved by IDWR



Date



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 414

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER	NESE	Sec. 6, Twp 04S, Rge 02E,	ELMORE County
SNAKE RIVER	1NENE	Sec. 8, Twp 04S, Rge 02E,	ELMORE County
SNAKE RIVER	2NWNE	Sec. 9, Twp 04S, Rge 02E,	ELMORE County

BENEFICIAL USE
IRRIGATION

DIVERSION RATE
0.51 CFS

VOLUME
114 AF

SEASON OF USE

Water Right No.	From	To
2-10471	4/1	10/31

RENTERS 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	
04S	02E	5					1.4 L3						2.8 L7						4.2
04S	02E	6		6.6 L12	5.2 L15									7.3 L16					19.1
04S	02E	8		2.0 L1															2.0

Total Acres: 25.3

RENTAL AGREEMENT CONDITIONS OF ACCEPTANCE

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from 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.
3. Use of water under this agreement does not constitute a dedication of the water to renter's place of use, and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
5. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
6. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
7. Renter acknowledges and agrees that the Director may terminate authorization for the use of a water right based on a water right's priority date.
8. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.

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WATER SUPPLY BANK RENTAL AGREEMENT No. 414

9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
10. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 4/8/2008.
11. Use of water under this right may 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. 02.
12. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
13. 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. The right holder shall accomplish the change authorized by this transfer within five years of the date of this approval.



STATE OF IDAHO
WATER RESOURCE BOARD

**APPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANK**

RECEIVED
JAN 06 2020
DEPARTMENT OF
WATER RESOURCES

Applicant Name: J. R. Simplot Company

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

Yes ☐ No ☐

If yes, specify companion water rights in Section 4

This application must be completed according to the minimum requirement checklist below. This checklist is part of the rental application and must be included with the rental application. **Applications that do not meet the minimum requirements will not be placed in the processing queue and may be returned until all minimum requirements have been met.**

Rental applications should be submitted well in advance of the desired start date for the use of rental water. Rental applications may be processed as early as November 1 of the year prior to the intended use of rental water. Any rental application received on or before November 1 for use in the next year will be assigned a received date of November 1. Rental applications submitted more than one year in advance of the proposed start date for the use of rental water will not be accepted and will be returned to applicants. Rental applications may be returned to applicants if the desired start date for the use of rental water cannot be accommodated by the Water Supply Bank. Rental requests will not be accepted once the rental season of use period has concluded.

One rental application per beneficial use of water. For multiple beneficial uses of water, separate rental requests should be submitted for each unique beneficial use of water. One rental application can be submitted if you propose to rent water from multiple sources.

For additional instructions on completing a rental application, visit the Bank's website at http://idwr.idaho.gov/water_supply_bank.

MINIMUM REQUIREMENT CHECKLIST

Check All Items as Either Attached (Yes) or Not Applicable (N/A)

Yes

- ☒ Completed *Application to Rent Water from the Board's Water Supply Bank*
- ☒ Confirmation that this form has been printed single sided, per requirement of the Water Supply Bank

Attachment N/A Yes

- | | | |
|----|--|--|
| 2 | ☒ | A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request |
| 3A | ☒ ☐ | Detailed information on a proposed use of rental water |
| 3F | ☒ ☐ | Authorization from the owner/operator of the rental point(s) of diversion |
| 3H | ☒ ☐ | Water modeling to account for the impacts of the rental request |
| 3J | ☒ ☐ | Documents justifying a rate of flow greater than 0.02 cfs/acre |
| 3K | ☐ ☒ | Authorization from the owner/operator of the property at the proposed rental place(s) of use |
| 4B | ☐ ☒ | Explanation of how the rental water will sufficiently accomplish your rental purposes |
| 4C | ☒ ☐ | Explanation of consumptive use amounts for water rights experiencing a change in nature of use |

Department Use Only – Proposed Water Right(s)

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant J. R. Simplot Company

Mailing Address	<u>P. O. Box 27</u>	<u>Boise</u>	<u>ID</u> <u>83707</u>
	Street	City	State Zip Code
Email Address	<u>vic.conrad@simplot.com</u>		Phone Number <u>208-780-7359</u>

B. Is this application being completed by an authorized representative on behalf of the applicant? Yes ☒ No ☐
 If yes, representatives (includes company employees if the applicant is a corporation, as well as legal counsel or consultants) should provide their information below if they desire to be included on correspondence with the rental applicant.

Representative <u>James B. Alderman</u>	Professional Title <u>Sr. Vice President and Secretary</u>
Organization <u>J. R. Simplot Company</u>	Relationship to Applicant _____
Mailing Address <u>P. O. Box 27, Boise, Idaho 83707</u>	
Email Address <u>Same as Applicant</u>	Phone Number <u>Same as Applicant</u>

2. MAP

Create a map of the proposed point(s) of diversion, place(s) of use and water diversion, delivery and distribution systems. Make sure the rental 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 irrigate. Attach the map to this application and label it **Attachment 2**.

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

A. Describe why you desire to rent water and provide a detailed description of your proposed use. If the proposed use is not for irrigation, describe in detail how you determined the amount of rental water required. If the space below is insufficient, attach additional sheets as required and label them **Attachment 3A**:

Water to irrigate 30 acres will be rented from water rights 2-10471 (21 acres) and 2-10472 (9 acres)

B. Enter the desired and/or minimum rates of flow, volume, or irrigable acres requested for your rental purposes:

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Desired Acres (if applicable)
0.6 CFS	120 AF	0.6 CFS	120 AF	30 AC

* Sometimes water rights provide an exceptionally low rate per acre and/or low volume per acre. This section is meant to establish an acceptable range of water sufficient for your proposed water use. Please see question 4B and complete if necessary.

C. This section must be completed in full. Enter the proposed start date and latest possible start date for using rental water as well as the number of years you would like to rent water. The latest possible start is the latest possible date by which you would be willing to pay for a rental and be able to benefit from utilizing rental water.

Desired Start Date (month/day/year)	Latest Possible Start Date (month/day/year)	*Mark Desired Rental Duration (Calendar Years)					**Applicant's preference if rental application cannot be processed prior to the latest possible start?	
Mar/15/2020	Mar/15/2020	☐ 1	☐ 2	☒ 3	☐ 4	☐ 5	☒ Process application as soon as possible	☐ Return application to applicant

* The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.

** Per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right. Water Supply Bank rental applicants are not authorized to utilize rental water prior to the execution of an approved rental agreement. Rental requests may be returned to applicants if no water is available from the Bank to fulfill a rental request.

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

- D. Describe your water distribution system and how rental water will be delivered from the point(s) of diversion (POD) to the proposed place of use (POU):

Water is diverted from the Snake River using Applicants Poings of diversion. Water this then applied to the rental place of use using applicant's overhead center pivot sprinkler systems.

- E. Describe the physical type (pump, headgate, etc.) and location of the POD from which rental water is proposed to be diverted:

POD Description	Water Source	Other Water Rights Diverted from this POD
T.4S R.2E Sec. 8 NENE	Snake River	2-2070, 2-2353, 2-2437
T.4S R.2E Sec. 9 NWNE	Snake River	2-2070
T.4S R.2E Sec. 6 NESE	Snake River	2-2437

If the POD(s) above are located where water is turned into a canal, lateral or ditch, or if they are located on your property but are serviced by water that is delivered via a canal, lateral or ditch, your rental request must include documented authorization from all relevant canal companies, irrigation districts and/or water delivery entities, confirming that they consent to your diversion of water from their system.

- F. Has documented consent from all relevant water delivery entities been obtained? Yes ☐ N/A ☒

If yes, include documented consent as **Attachment 3F**.

- G. Do any POD(s) identified in Question 3E divert from a water source that may require water modeling? Yes ☐ No ☒

Refer to the Water Modeling Requirements Information Sheet to determine if a rental POD may require water modeling.

- H. Has water modeling been provided with your rental request? Yes ☐ N/A ☒

If yes, label modeling Attachment 3 H.

Rental applications that require modeling will be returned if modeling is not provided.

- I. Specify the desired beneficial use of water and the requested season of use or number of acres required:

- ☒ Irrigation 30 (number of acres) Duration: Subject to IDWR standard seasons of use
- ☐ Commercial from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Stockwater from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Industrial from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Other: _____ from: _____ (mm/dd) to: _____ (mm/dd)

- J. For irrigation uses, do you propose to divert water at a rate greater than 0.02 cfs/acre? N/A ☐ Yes ☐ No ☒

If yes, justify the rate of flow and attach any supporting documents as **Attachment 3J**. Justification may include information on soil composition, conveyance losses, crop type, irrigation systems, public access areas, etc. A rate of 0.03 cfs/acre is permissible for irrigation of 5 acres or less.

- K. Do you own the land at the proposed rental place of use (POU)? Yes ☐ No ☒

If no, attach documentation from the POU owner/operator confirming your authorization to use the POU and label it **Attachment 3K**.

- L. List all other water rights and sources of water at the rental place of use for the same purpose, including privately owned water rights and water received from a municipal supplier, an irrigation district, a canal company or any other water delivery entity. Explain why additional water is required:

No other water rights are available at the proposed rental place os use

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

4. RENTAL REQUESTS FOR SPECIFIC WATER RIGHTS

A. Are you requesting to rent specific water rights?

Yes ☒ No ☐

If yes, specify below the elements of the water rights you are requesting to rent. If no, continue to Question 4B.

Important Information: Diversion rates and volumes sought for rent must be proportionate to the per acre diversion rates and per acre volume limits of the water right under lease contract to the Water Supply Bank. Prior to completing this section, applicants should review all water right lease contracts and any active rental agreements to determine which elements of a water right are available to satisfy a rental request. Lease and rental documents are searchable via [IDWR's website](#).

Water rights identified below must either already be leased to the Bank or a lease proposal should accompany this rental request. **Rental requests for water rights not yet leased to the Bank will be returned if companion lease applications are not provided with the rental request.** For leased rights featuring combined limits, rentals must be consistent with combined diversion rate, volume or acre limits. Combined limits should be listed on a row below water right numbers.

Water Right Elements Leased to Water Supply Bank					Leased totals, minus water right elements involved in active rental agreements, equals water right elements available for rent	Water Supply Bank Rental Request		
Water Right Number (leave blank if sub-total of combined limits)	Nature of Use	Diversion Rate (CFS)	Volume (AF)	Acres (AC)		Diversion Rate (CFS)	Volume (AF)	Acres (AC)
2-10471	Irrigation	23.76	4,572	1,428		0.42	84	21
2-10472	Irrigation	0.3	15	60		0.18	36	9
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank					TOTAL	0.6	120	30
						CFS	AF	AC

**Attach multiple copies of this page if space above is insufficient to list all water rights requested to be rented on this application.*

B. If water right conditions, combined limits, or the sum of all water right elements being requested provide an unconventional duty of water (e.g., an unusually low rate per acre or volume per acre for irrigation use), explain how your proposed rental will sufficiently accomplish your intended purposes. Attach a separate page if space is insufficient and label it **Attachment 4B**:

C. Does your rental request propose to change the nature of use for any water right(s) being rented?

Yes ☐ No ☒

If yes, explain how the water right(s) will be converted to new uses. Include the historic, consumptive use amounts for the water right being rented if you have it, as well as the new consumptive use amount for your proposed beneficial use. If space below is insufficient, attach a separate page and label it **Attachment 4C**:

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

- A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes ☒ No ☐
If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs:

- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental? Yes ☐ No ☒
If yes, describe:

- C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes ☐ No ☒
If yes, describe the date and location of the NOV.

An application and subsequent approval to rent water was filed in 2017 under IDWR Case No. E2017-1136.
This application is filed to allow for the continued irrigation of the same rental place of use identified in the 2017 application.

- D. Additional Information

DECLARATION

I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval. I understand that if this rental application is approved, it will be subject to the provisions of Section 42-1766, Idaho Code and all applicable state and federal laws. I understand that the submission of a rental application provides no guarantee for approval of a rental agreement. I also understand that, per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right and that I am not authorized to utilize water as proposed in this application prior to the execution of an approved rental agreement.


Signature of Applicant

J. R. Simplot Company
Printed Name of Applicant

1-2-20
Date

Signature of Representative

James B. Alderman
Printed Name of Representative

Date

Mail to:

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

STATE OF IDAHO
WATER RESOURCE BOARD

Water Modeling Requirement Information Sheet

Information on water modeling requirements for rental requests within special administrative areas

Important information on requesting rental water within special administrative areas: Refer to the information below to determine whether the modeling of potential impacts from your rental request is necessary. Use Section 4 of the rental application to identify selected water rights. **If you submit an application to rent water from within a special administrative area and water modeling is required, your rental request will be returned if water modeling is not provided.**

Water modeling may be required when an application to rent water involves one of two scenarios:

Scenario 1: The rental request proposes to divert water from a regulated water source and/or within a special administrative area AND the distance between the rental point(s) of diversion (POD) and the POD(s) for the leased water right(s) is greater than the administratively established, acceptable distance.

Regulated water sources may areas include:

- A. Ground water resources within the modeled area of the Eastern Snake Plain Aquifer (ESPA) and tributary aquifers;
- B. Ground water within Ground Water Management Areas (GWMAs) or Critical Ground Water Areas (CGWAs);
- C. Water resources within other specified administrative areas, as established by the Idaho Water Resource Board (IWRB) or the Idaho Department of Water Resources.

The distance between any rental POD(s) and the POD(s) for a leased water right to be rented is important. On the ESPA, distance is measured in terms of model cells that cover an area of one square mile. Ground water modeling is not required if lease POD(s) and rental POD(s) are located within the same model cell or within adjacent model cells. If the lease and rental PODs are separated by more than one model cell groundwater modeling must be completed using the IDWR ESPA Transfer Tool and modeling results must be submitted with the rental application. ESPA modeling tools can be accessed and freely downloaded from IDWR's website by visiting: www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm.

Ground water modeling may be required within GWMAs, CGWAs or other regulated administrative areas. Applicants who desire to rent water within an established GWMA, CGWA or other regulated administrative area should consult IDWR's website before submitting their application to review the current status of administrative orders related to regulated administrative areas. Consult www.idwr.idaho.gov/WaterInformation/GroundWaterManagement/designated_areas.htm for information on GWMAs or CGWAs, visit <https://idwr.maps.arcgis.com/home/> to use mapping tools to find other regulated areas.

Applicants interested in renting water within a GWMA, CGWA or other regulated administrative areas should request water rights that have been leased into the Bank from within the same administrative area. Generally, the Bank will not permit a rental of water within a regulated administrative area if the leased water rights are not located within that same administrative area.

Scenario 2: A rental request proposes to divert water from a different but hydraulically connected water source.

Modeling situations may include:

- A. Rental requests that propose to divert surface water rights via ground water POD(s) (wells); and
- B. Rental requests that propose to divert ground water from one aquifer when the right being rented authorizes the diversion of ground water from a hydraulically connected, tributary aquifer.

Rental requests that propose to divert surface water rights from ground water points of diversion may be considered if ground water modeling establishes that the surface and ground water resources are directly and immediately hydraulically connected. An acceptable hydraulic connection occurs when at least 50 percent of the total depletions from a well are detectable from the original water source within a 24 hour period. The existing (leased) POD and proposed (rental) POD must be proximate such that diversion and use of water from the proposed POD would have substantially the same effect on the hydraulically-connected source as diversion and use of water from the original POD.

Requests to rent ground water across tributary aquifer sources may be considered if ground water modeling is provided to demonstrate that two aquifers are hydraulically connected and the anticipated impacts of diverting ground water from one source through the other is modeled accordingly.

For more information about rental application requirements, contact IDWR at (208) 287-4800.





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 23, 2020

J R SIMPLOT CO
1099 W FRONT ST
PO BOX 27
BOISE, ID 83707

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 2-10471 AGREEMENT 412, 413 & 414**

Dear Renter:

Please find enclosed receipt C108639 in the amount of **\$6,528.00** and copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 3,260.0 acre-feet (Agreement 412) for water for irrigation of 813.2 acres. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Please find enclosed receipt C108604 in the amount of **\$908.00** and copies of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 340 acre-feet (Agreement 413) for water for irrigation of 85.0 acres and rental of 114 acre-feet (Agreement 414) of water for irrigation of 28.5 acres. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Pursuant to the Water Supply Bank Rules, the rental fee will be retained by the Department to offset administrative costs since you have a private agreement with the lessor of the right(s).

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

Sincerely,

for Water Supply Bank

Enclosures: Receipt No. C108604
Rental Agreement (copy)

c: Sascha Marston – Fiscal
Nick Miller – IDWR Western Regional Office</Water District # (if same contact)>
Rob Whitney – State Water District No. 02



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

1099 West Front Street
Boise, Idaho 83702

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

RECEIVED
APR 13 2020
DEPARTMENT OF
WATER RESOURCES

April 10, 2020

Jean Hersley
State of Idaho
Department of Water Resources
322 E. Front Street, Suite 648
P. O. Box 83720
Boise, ID 83720-0098

Re: Water Supply Bank Rental Agreement Nos. 413 and 414.

Dear Jean:

Enclosed are the partially executed originals of the above referenced rental agreements. I am also enclosing a check in the amount of \$908.00 to cover the rental fees during 2020 for agreement no. 413 (\$680.00) and agreement no. 414 (\$228.00).

Please arrange for both of the enclosed originals to be executed by the Water Resource Board and the IDWR, then return fully executed originals to me.

Sincerely,

Vic Conrad
Land, Water & Asset Recovery

Enclosure





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 30, 2020

JR SIMPLOT CO
PO BOX 27
BOISE ID 83707-0027

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 2-10471, AGREEMENT 413 & 414

TIME SENSITIVE RESPONSE REQUIRED

Dear Applicant:

The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have enclosed two Water Supply Bank Rental Agreement for your review and signature.** Upon signature and return of the original agreement, together with the rental fee described below, the Department will also sign the original agreement and return an executed copy to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

For Agreement 413, a rental fee of **\$6800.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of **340.0** acre-feet. Since you are both the lessor and the renter of the right(s), **you are only obligated to pay the 10% administrative fee or \$680.00.**

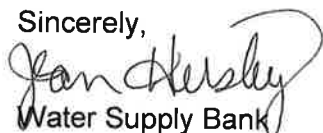
For Agreement 414, a rental fee of **\$2280.00** was calculated based on the current rental rate of \$20.00 per acre-foot time a diversion volume of **114.0** acre-feet. Since you are both the lessor and the renter of the right, **you are only obligated to pay the 10% administrative fee or \$228.00.**

An annual payment shall be received by the Department prior to the execution of this agreement and prior to January 1 in all subsequent years for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

Please send a check for \$908.00 for both agreements made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so the Department can complete processing.

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,


Water Supply Bank

Enclosure(s)

c: IDWR Front Desk

Memorandum

To: Water Right 2-10471, 2-2353, 2-2070 & 2-2437

From: Scott Storms

Date: March 9, 2020

Re: Water Supply Bank Rental Application 1603 for Agreement 414

Purpose/Narrative: Application to rent water from the Water Supply Bank (Bank) was received from Vic Conrad on behalf of the JR Simplot Company on January 2, 2020. This rental was received as part of a lease/rental package and proposes to rent 30 acres and 120 af at a rate of 0.6 cfs, from rights 2-10471 & 2-10472. The original proposal was for 21 acres, 84 af and 0.42 cfs from 2-10471 and 9 acres, 36 af and 0.18 cfs from 2-10472. This same amount was originally rented for a 2 year term in 2017 in order to alleviate a Notice of Violation (NOV) from the Department. The original review found a total of 30 acres that was being irrigated but was not covered by the place of use (POU) descriptions for water rights (WR) 2-2353, 2-2070, and 2-2437. Along with the rental, JR Simplot Co. submitted transfer No. 81822 which proposed to move 11 acres of the POU for 2-2353 from a non-irrigated area, into the irrigated area described in the NOV.

I conducted new analysis of the irrigated area using 2019 NAIP imagery and the POU description for 2-2353 after the approved transfer and concluded that there are now only 25.3 acres that were irrigated in 2019 which did not fall within the POU descriptions of the aforementioned rights.

Authority to File: The application was signed by James Alderman, Senior VP and Secretary for the JR Simplot Company. According to tax lot data available to the Department of Water Resources (Department), all but one of the parcels at the place of use (POU) are owned the JR Simplot. The parcel covering Lot 12, 15, and 16 of Sec. 6 is owned by the BLM. JR Simplot Company submitted a letter from the BLM with their 2017 application acknowledging Simplot's lease of this land, and that lease appears to still be valid.

Water Right Validity/Forfeiture Evaluation: Right 2-10471 was split from WR 2-10449, which was subsequently split from WR 2-10433, which was decreed in 2008 and placed in the bank in 2009 indefinitely. Right 2-10471 has remained in the Bank every year since it was spit off in 2011, with the latest lease contract expiring the end of 2019. This rental application was part of a lease/rental package that included lease application 1590, proposing to lease WR 2-10471 to the Bank for another 5 years.

No concerns over validity of the right.

Injury Evaluation/Rentability: The lease POD is located on the Snake River arm of CJ Strike reservoir, and the rental PODs are located about 22 miles downriver of the CJ Strike dam. Both the lease POD and the rental PODs are located on water district #2 and both are within the Trust Area. The only other rights diverted through the rental POD are those involved with the rental and owned by the applicant. There are no concerns over injury to other rights.

Enlargement of Use/Rentability: This rental was originally established in 2017 as response to an NOV from the Department. The original NOV cited 30 acres of land being irrigated beyond or outside of the POU descriptions for WRs 2-2-2070, 2-2353, and 2-2437. In addition to the 2017 rental, the JR Simplot Co. filed for transfer No. 81822, which proposed to move 11 acres of the POU for WR 2-2353 to part of the area outlined in the NOV. That transfer was approved in October 2017. After conducting detailed analysis of what is now authorized by these rights vs what was clearly irrigated in 2019 (based on 2019 NAIP imagery and seasonally calculated Max NDVI from Sentinel 2 remote

sensing data), it was determined there was 25.3 acres of irrigation that fell outside of the POU descriptions of the aforementioned rights. The tables below represent the acre comparisons of those rights and the irrigated area.

Total Acres Authorized																			
IRRIGATION within ELMORE County																			
			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04S	02E	4										33	40	36			20		129
04S	02E	5			40				40	40	40	40		39	26	38	38	40	381
												L5		L7			L8		
04S	02E	6	32			40													72
			L1																
04S	02E	8	31																31
			L1																
04S	02E	9					16	14											30
							L3	L4											
																Total Acres Authorized			643
																Combined Acre Limit			560

Total Acres Irrigated																			
IRRIGATION within ELMORE County																			
			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04S	02E	4										16	36						52
04S	02E	5			25		1.4		37	40	40	37	2.8	23	25	38	38	40	347.2
												L5		L7			L8		
04S	02E	6	17	6.6	5.2	37									7.3				73.1
			L1																
04S	02E	8	17	2															19
			L1																
04S	02E	9						11											11
								L4											
																Total Acres Irrigated			502.3

Total Acres Outside of WR POU Descriptions																			
IRRIGATION within ELMORE County																			
			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04S	02E	4																	0
04S	02E	5					1.4						2.8						4.2
04S	02E	6		6.6	5.2										7.3				19.1
04S	02E	8		2															2
04S	02E	9																	0
															Total Acres Outside POU Descriptions				25.3

In addition to examining the POU acre description for the existing water rights, rights 2-2353 and 2-2437 contain a combined acre limit of 560 acres. When examining all irrigation that took place in 2019, there were only 476.4 acres irrigated within the boundaries of these two rights.

There was another 58.9 acres of irrigation that only fell within the POU for 2-2070. This right is authorized for 73 acres within that POU description.

There are no further concerns of enlargement.

Local Public Interest: Review staff has no information to suggest this application is inconsistent with the local public interest.

Beneficial Use/Conservation of Water Resources: The rental appears consistent with the conservation of water resources in Idaho.

Department/Watermaster Comments:

Storms, Scott

From: Storms, Scott
Sent: Tuesday, March 10, 2020 10:17 AM
To: Whitney, Rob; Miller, Nick
Subject: Simplot WSB Lease/Rental Package
Attachments: Application Review_Rental_App_1591.docx; RentalMove_1591.pdf; Application Review_Rental_App_1601.docx; RentalMove_1601.pdf; Application Review_Rental_App_1603.docx; Rental_1603_Move_Map.pdf; Lease Application Review 2-10471.xls

Gentlemen,

Please see the attached review memos and move maps for JR Simplot Co. lease application 1590, and rental applications 1591, 1601, & 1603. Please respond within 14 days of this email. IDWR will assume you do not object to this application if a timely response is not received.

Thanks,

Scott

Scott Storms
Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov

Storms, Scott

From: Conrad, Vic <Vic.Conrad@simplot.com>
Sent: Tuesday, March 10, 2020 10:49 AM
To: Storms, Scott
Subject: RE: [EXTERNAL] Water Supply Bank Rental App 1591

Scott,

I forgot about the transfer we filed and good catch. Yes, please reduce the application to the 25.3 acres you see. If it is easier to administer the application by covering it all with 2-10471, please do so. I wasn't sure how much was left under 2-10471.

From: Storms, Scott <Scott.Storms@idwr.idaho.gov>
Sent: Tuesday, March 10, 2020 10:21 AM
To: Conrad, Vic <Vic.Conrad@simplot.com>
Subject: RE: [EXTERNAL] Water Supply Bank Rental App 1591

Good morning Vic,

I just wanted to touch base and see if you've had time to review my last email (below) in regards to rental app. 1603? If you would like to make any changes like I referenced below, please let me know by the end of the week, otherwise I will proceed as it was applied for.

Thanks again,

Scott

From: Storms, Scott
Sent: Thursday, March 5, 2020 3:11 PM
To: 'Conrad, Vic' <Vic.Conrad@simplot.com>
Subject: RE: [EXTERNAL] Water Supply Bank Rental App 1591

Vic,

Another question, this one on the last of the three rentals, the one relating to WRs 2-2070, 2-2353 and 2-2437. The original rental was to alleviate an NOV in 2017 and was originally for 30 acres. I re-analyzed the acreage per QQ not covered under the existing rights using the 2019 aerial imagery, and now after transfer 81822 completed in October of 2017, I'm only seeing 25.3 that go beyond the QQ descriptions of the existing rights. Would you like this application reduced to 25.3 acres? Additionally, you originally applied for 21 acres from 2-10471 and 9 acres from 2-10472, however there is more than enough available to rent all the water from 2-10471. Would you like it all to come from that right or do you still want to divide the rental up between the two?

Scott

From: Conrad, Vic [<mailto:Vic.Conrad@simplot.com>]
Sent: Thursday, March 5, 2020 11:08 AM
To: Storms, Scott <Scott.Storms@idwr.idaho.gov>
Subject: RE: [EXTERNAL] Water Supply Bank Rental App 1591

Scott,

These land were irrigated a few years ago, and are no longer. The BLM gave us permission to walk the pivots across the BLM land. Currently the sprinkling function of the pivots shut off when entering BLM land; then the sprinkling function resumes after the pivots re-enter Simplot land. Currently, the pivots only walk across the BLM land.

From: Storms, Scott <Scott.Storms@idwr.idaho.gov>

Sent: Thursday, March 5, 2020 11:03 AM

To: Conrad, Vic <Vic.Conrad@simplot.com>

Subject: RE: [EXTERNAL] Water Supply Bank Rental App 1591

Thanks Vic, that definitely helps.

I have another question on another of the rentals of 2-10471, this one about the rental associated with WRs 2-6, 2-15, 2-2166 & 2-10440 (now rental app 1601). In the application you stated "Due to potential for exceeding the combined rate of diversion under IDWR water right Nos. 2-6, 2-15, 2-2166, and 2-10440 during certain periods of the irrigation season, the applicant seeks to rent additional flow under water right 2-10471 to cover the potential exceedance during peak crop water demands". I believe the purpose was stated the same last year, and as such, the POU was described by matching the outline of these combined rights. My question is in regards to what appears to be irrigation taking place in small sections outside the combined POU of these rights and, according to the parcel data I have, is also on BLM lands? I've attached a map displaying those areas, basically in Lot 9 (SNNW) of Sec. 18 and the NENE of Sec. 24. The imagery is from last year, 2019, and clearly there is some sort of differing practice taking place on these "slices" of the pivots, however it still appears there is some form of irrigation taking place outside of any authorized POU.

From: Conrad, Vic [<mailto:Vic.Conrad@simplot.com>]

Sent: Tuesday, March 3, 2020 4:49 PM

To: Storms, Scott <Scott.Storms@idwr.idaho.gov>

Subject: RE: [EXTERNAL] Water Supply Bank Rental App 1591

Scott,

Thank you for taking the time to put this together – and I think I understand the question. The WSB application is for the area shown in purple and green for both the land that is covered under the Jacks Creek water rights; and land that is not covered by a water right. Jacks Creek rarely has enough water in it at this location to irrigate the places of use – and the yield from the low-temperature geothermal wells is declining due to declining water levels. The application is intended to provide a reliable water supply for the irrigation season from a different source that serves to preserve water in the low temperature geothermal aquifer and make-up for the little flow in Jacks Creek.

Yes, there are areas as you've identified that were previously and will continue to be irrigated with water WSB water only. These are generally shown in the purple areas you identified in the image.

Does this help

From: Storms, Scott <Scott.Storms@idwr.idaho.gov>

Sent: Friday, February 28, 2020 10:12 AM

To: Conrad, Vic <Vic.Conrad@simplot.com>

Subject: [EXTERNAL] Water Supply Bank Rental App 1591

[Warning: External Email]

Hello Vic,

I am reviewing the WSB rental applications associated with the lease of WR 10471 and I have some questions about the application involving supplementation/replacement of water rights sourced from Jacks Creek (as well as a couple groundwater), now application 1591. The application states that the rental is "A substitute supply for water diverted under 51-2254, 51-2113C, 51-2111, 51-2164, 51-21112, 51-2015, 51-2117, 51-2124, 51-10377 and 51-2131 is necessary due to declining water levels and insufficient flows." In reviewing the rental POU, I also found WR 51-7279, also sourced from Jacks Creek, covers a portion of the rental POU and am also including it in my review. Examining the POU for all these rights and comparing with the POU described for the rental, I'm coming up with some discrepancies as far as what is covered by these rights and what looks to be irrigated. It appears there is approximately 87 acres being irrigated that does not fall within the POU of any water rights. I've attached a map that hopefully helps describe what I'm looking at. The red outline displays the POU of all existing water rights in this area, and the green and purple displays the rental POU description. The purple portion is that which falls outside of existing water right coverage. Some of this may just be a matter of projection alignment and digitizing, however I am particularly curious about the larger portions, especially those located in the NENW, SWNW and NWSW of Sec. 21.

Essentially, I just need a better explanation of the purpose of this rental, as it appears the entirety of the POUs for all water rights have been irrigated over the past several years, including those portions not covered by this or prior rentals, as well as irrigation on lands that currently have no existing water rights.

Thank you,

Scott

Scott Storms
Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov