

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 412

RECEIVED
APR 20 2020
DEPARTMENT OF
WATER RESOURCES

This is to certify that:

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

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	16.3	3,260	813.2	0.020	4.00
Combined Rental Totals			16.3	3,260	813.2	0.020	4.00

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2024. 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: \$6,528.00 annually
2023 - 2024: \$7,507.20 annually

The full fee for the rental of the above-described right(s) is \$6,528.00 per year for years 2020 - 2022 and \$7,507.20 per year for years 2023 - 2024. The rental fee includes an administrative fee of \$6,528.00 per year for years 2020 - 2022 and \$7,507.20 per year for years 2023 - 2024.

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	16.3	3260	813.2	0.020	4.00
Combined Total	16.3	3260	813.2	0.020	4.00

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 412

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

4-14-2020

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 4/21/2020

Rental approved by IDWR 

Date 4/21/2020

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 412

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER SENE Sec. 17, Twp 06S, Rge 05E, OWYHEE County

BENEFICIAL USE
IRRIGATION

DIVERSION RATE
16.3 CFS

VOLUME
3260 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	
06S	05E	20		33		28									39	3.4	19	40	162.4
06S	05E	21			16		23		29	35	22	35	40	29		23			252
06S	05E	28					34	39	32	1.2									106.2
06S	05E	29	40	32	35	40				0.8	23			31	12	40	37	1.8	292.6

Total Acres: 813.2

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.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

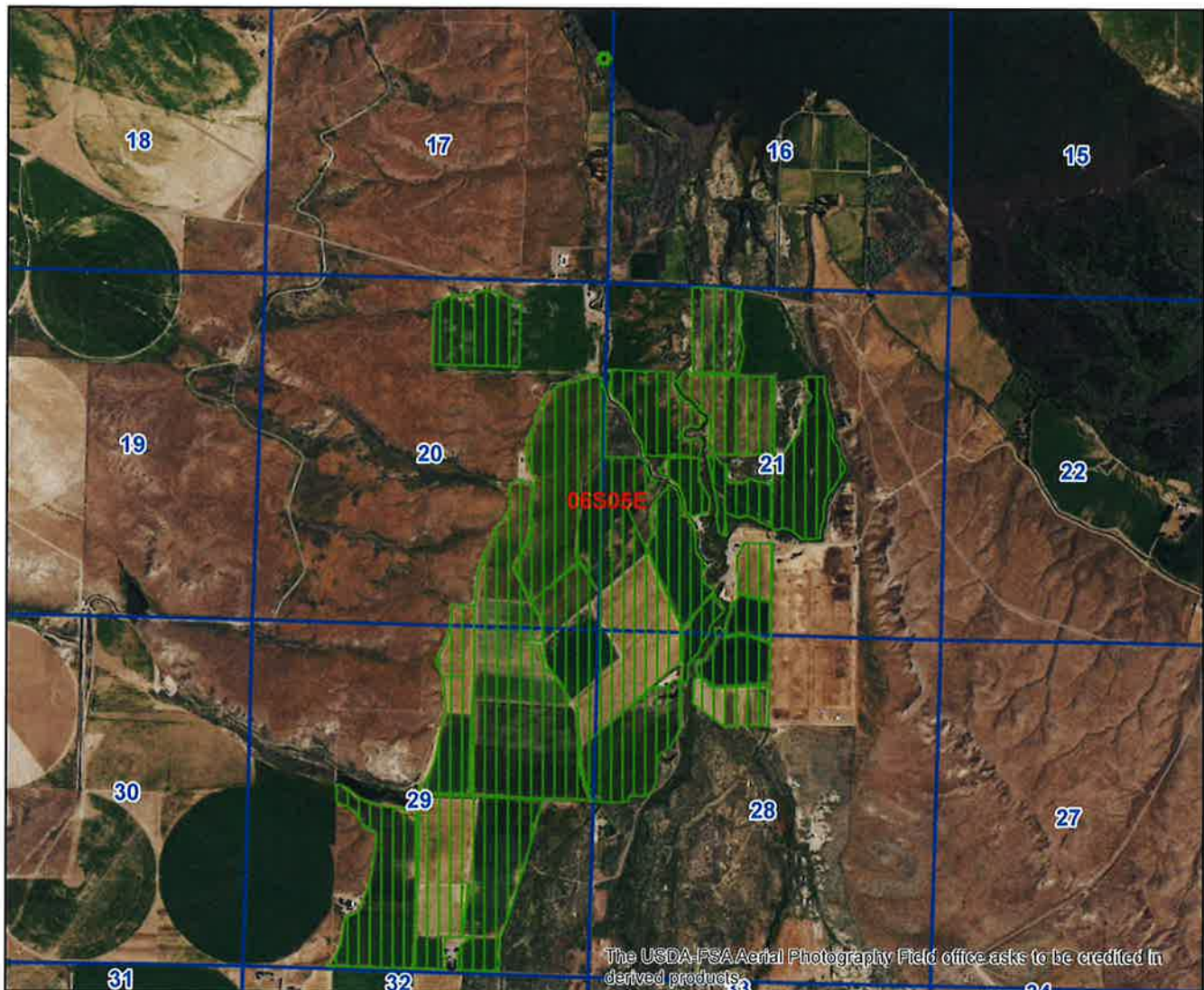
WATER SUPPLY BANK RENTAL AGREEMENT No. 412

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 a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
13. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.
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.

Idaho Water Resource Board
Attachment to Water Supply Bank Rental Agreement No. 412

Effective until December 31, 2024 ✓

This map depicts the **rental place of use** pursuant to the rental agreement and is attached to the agreement solely for illustrative purposes.



-  Authorized Rental Point of Diversion
-  Authorized Rental Place of Use
-  Township/Range
-  Sections

0 0.25 0.5 1 Miles





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

RECEIVED

APR 20 2020

1099 West Front Street
Boise, Idaho 83702

DEPARTMENT OF
WATER RESOURCES

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

April 17, 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 No. 412; IDWR Water Right 2-10471.

Dear Jean:

Enclosed is the partially executed original of the above referenced rental agreement. I am also enclosing a check in the amount of \$6,528.00 to cover the rental fees during 2020.

Please arrange for the enclosed original 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
WATER RESOURCE BOARD

RECEIVED

JAN 02 2020

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANK

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)

2-10471

**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>Idaho</u>	<u>83707</u>
	Street	City	State	Zip Code
Email Address	<u>vic.conrad@simplot.com</u>		Phone Number	<u>208-336-2110</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 _____	Professional Title _____
Organization _____	Relationship to Applicant _____
Mailing Address _____	
Email Address _____	Phone Number _____

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 will be used to irrigate crops

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)
16.32 CFS	3264 AF	16.32 CFS	3264 AF	816 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?	
April 1	April 1	☐ 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 will be diverted from Applicant's existing pump station located within the SE¼NE¼ of Section 17 T.6S R.

5E. Water is transported to the place of use with an underground pipeline.

- 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
Water Intake&Pump Station	SNAKE RIVER	2-10520 and 2-10521

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 816 (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:

A substitute supply for water diverted under 51-2254, 51-2113C, 51-2111, 51-2164, 51-2112, 51-2015, 51-2117, 51-2124, 51-10377 and 51-2131 is necessary due to declining water levels and insufficient Jacks Creek flows.

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	4752	1482		16.32	3264	816
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			
						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**:

NA

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:

Current Rental Agreement authorizes rental of water right 2-10471 for the same purpose.

- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental?

If yes, describe:

Yes ☐ No ☒

- 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.

- 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

James B. Alderman, Sr. V.P. and Secretary

Printed Name of Applicant

12-23-19

Date

Signature of Representative

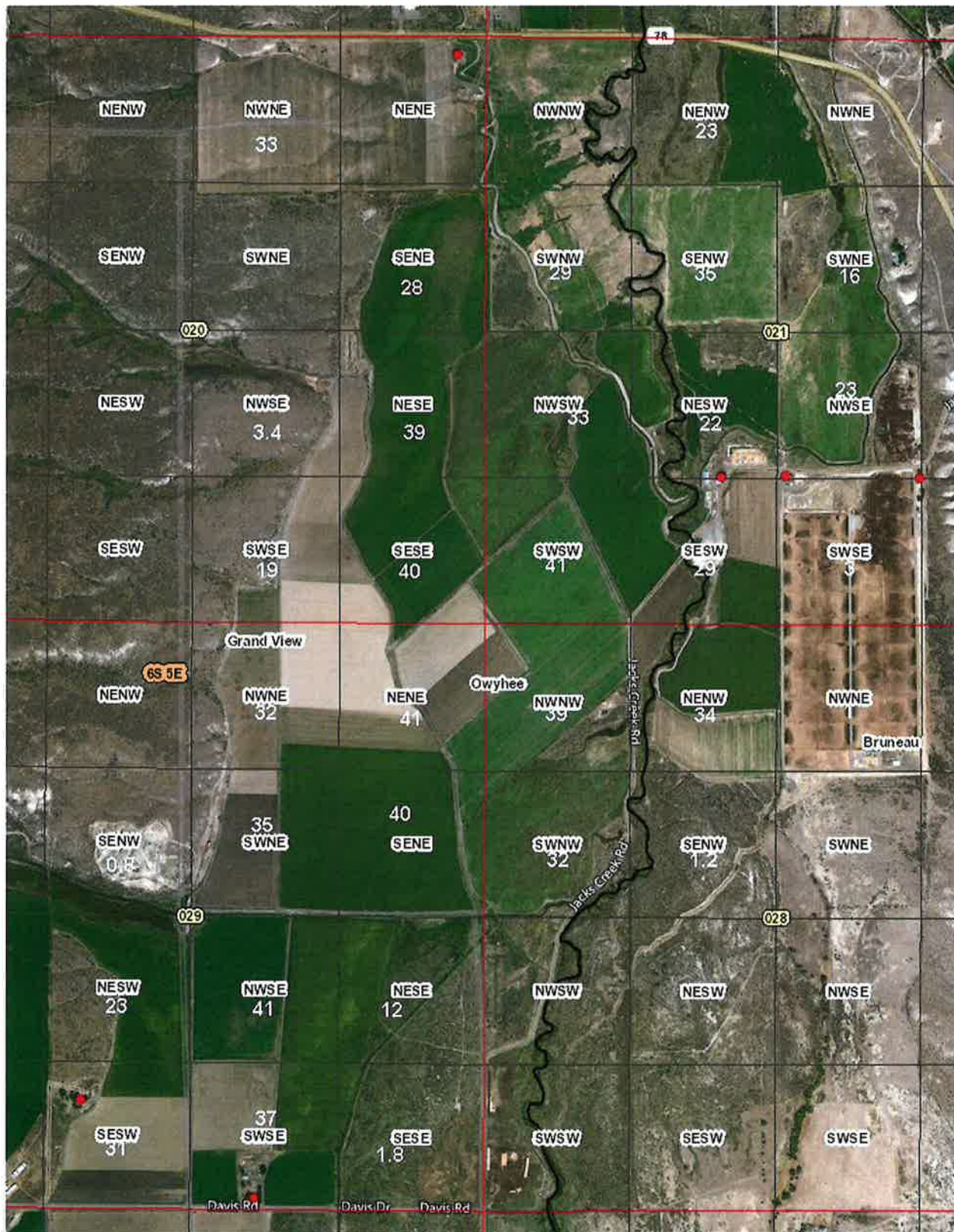
Printed Name of Representative

Date

Mail to:

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

Water Bank Rental Application 2-10471 Place of Use





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



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 10, 2020

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

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 2-10471, AGREEMENT 412**

*****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 a 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.

A rental fee of **\$65,285.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 3260 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 \$6528.00.** 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 \$6528.00 made payable to the Idaho Department of Water Resources, together with the signed rental agreement, within 14 days so I 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, 51-2254, 51-2113C, 51-2111, 51-2164, 51-2112, 51-2015, 51-2117, 51-2124, 51-10377, 51-2131, 51-2039, & 51-7279

From: Scott Storms

Date: March 10, 2020

Re: Water Supply Bank Rental Application 1591 for Agreement 412

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 816 acres and 3264 af of water from water right (WR) 2-10471, also held by the JR Simplot Company. This application requests the same rental amounts as was authorized under agreement 298 for 2019, as well as for agreement 111 for the years 2017-2018. The current agreement requests this amount for 5 years, and the most current lease application for WR 2-10471 also requests to lease that right for the next 5 years.

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 parcels at the place of use (POU) are owned by either the JR Simplot Company or Simplot Livestock Company, Grand View Farms. The land at the point of diversion (POD) is held by Idaho Power Company. Prior reviews indicated that an agreement was established between the JR Simplot Company and Idaho Power Company as part of transfer 80453, for use of this land for establishing the POD. No concerns over authority to file.

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 POD is located on the Bruneau arm of CJ Strike. Both POD's are in water district #2 and both are outside the ESPA modeling area boundary. There are no apparent concerns of injury to other rights.

Enlargement of Use/Rentability: There are numerous other rights with overlapping POUs at the proposed rental POU. The application lists all other rights held by the JR Simplot Company at the POU, and states that the purpose for this rental is a substitute supply for these rights and is necessary due to declining water levels and insufficient flows in Jacks Creek. Rights listed on the application are 51-2254, 51-2113C, 51-2111, 51-2164, 51-2112, 51-2015, 51-2117, 51-2124, 51-10377, and 51-2131.

Overlap analysis revealed that WRs 51-2039, 51-7279, 51-6, 51-7, 51-8, and 51-4096 also overlap the rental POU.

Rights 51-6, 51-7, 51-8, and 51-4096 are all owned by South Side Bruneau Canal Co. LTD. Prior rental reviews indicate that JR Simplot Company holds no shares in South Side Bruneau for diversion at this POU, and therefore those rights are not considered in this review.

Right 51-7279 is owned by M L Investment Company and the entire 98 acre POU for this right is located on lands owned by Simplot Livestock Company. Review of the Idaho Secretary of State annual report for M L Investment revealed several executors on the report with the name Simplot, including John D. Simplot, listed as Director and Treasurer. John D Simplot is also listed as a Director on the annual report for the JR Simplot Company, and therefore it is assumed that this right is also used at the rental POU. Right 51-7279 is for 98 acres and is sourced from Jacks Creek, however only 65 acres of the rental POU overlap with WR 51-7279. The remaining 33 acres of this right are also covered by WR 2-10521, sourced from the same POD as the proposed rental POD, and therefore likely do not require supplemental rental water.

The next group of rights are those owned by the JR Simplot Company and are sourced from Jacks Creek. This group include 51-2254, 51-2111, 51-2112, 51-2015, 51-2124, 51-2039, and 51-2131. These rights were all included in the applicant's statement regarding the necessity for a substitute supply.

Three more rights, 51-2113C and 51-2117, and 51-2164 are sourced from groundwater and owned by JR Simplot Co. These three were also included on the application as needing a substitute supply.

The final right, 51-10377, is a wastewater right owned by JR Simplot Co. and was also included in the application statement.

All of the rights owned by JR Simplot Co. are included together in combined rate and acre limit conditions that are found on each of the rights, however the limits differ on the groundwater rights vs the Jacks Creek rights. The Jacks Creek rights is stated a rate limit 15.25 cfs and acre limit of 1102.3 acres resulting in 0.0138 cfs/acre. The groundwater rights state a flow limit of 20.48 cfs and acre limit of 1024 acres, resulting in 0.02 cfs/acre. Because the groundwater rights were decreed at a later date than the Jacks Creek rights, it is assumed that the rate and acre limit found on those rights is the most current and correct, and therefore irrigation at the POUs is authorized at 0.02 cfs/acre.

In examining the rental application POU description along with the POU of all the aforementioned rights, it was found that, of the 816 acre rental POU, only 728.73 acres fell within the POU descriptions of the existing rights. Another 87.27 acres fell outside of those rights POUs. A question was posed to Vic Conrad of the JR Simplot Co., asking for clarification in regards to the purpose of the application, and as to whether some of the rental water was intended to be used to irrigate area not covered by other water rights.

Vic responded that the 87.27 acres outside the POU descriptions of the other rights was indeed intended to only be irrigated by rental water, and that the remaining acreage will be as supplementation/substitute water for the existing rights. He also added that Jacks Creek rarely sees sufficient flows to supply the surface water rights throughout the year, and that declining groundwater levels have resulted in reduced water yields from the wells for the groundwater rights to a point they can no longer support the full authorized area either.

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 3, 2020 4:49 PM
To: Storms, Scott
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