

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## WATER SUPPLY BANK LEASE CONTRACT No. 978

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

**LESSOR:** J R SIMPLOT CO

1099 W FRONT ST PO BOX 27

BOISE, ID 83707-0027

**RECEIVED**  
**OCT 08 2019**  
DEPARTMENT OF  
WATER RESOURCES

### RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on February 13, 2019.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

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

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

#### Summary of Water Rights or Portions Leased to the Bank

| Water Right No.     | Priority Date | Source                                   | Diversion Rate (CFS) | Diversion Volume (AF) | Acres (AC)  |
|---------------------|---------------|------------------------------------------|----------------------|-----------------------|-------------|
| 2-2175A             | 2/15/1962     | SNAKE RIVER, tributary to COLUMBIA RIVER | 1.14                 | Not Stated            | 82.4        |
| <b>Lease Totals</b> |               |                                          | <b>1.14</b>          | <b>Not Stated</b>     | <b>82.4</b> |

#### Summary of Water Rights Elements Rentable From the Bank

| Water Right   | Diversion Rate (CFS) | Diversion Volume (AF) | Acres (Limited) (AC) | Rate Per Acre (CFS/AC) | Volume Per Acre (AF/AC) |
|---------------|----------------------|-----------------------|----------------------|------------------------|-------------------------|
| 2-2175A       | 0.56                 | 237.7                 | 82.4                 | 0.007                  | 2.9                     |
| <b>Totals</b> | <b>0.56</b>          | <b>237.7</b>          | <b>82.4</b>          | <b>0.007</b>           | <b>2.9</b>              |

*\* The water right elements rentable have been reduced from the water right elements leased to account for enlargement concerns.*

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

**Minimum Payment Acceptable:** Current Rental Rate

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK LEASE CONTRACT No. 978**

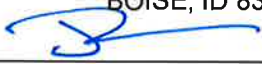
3. **TERM OF LEASE:** The term of this lease shall be January 1, 2019 to December 31, 2021. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

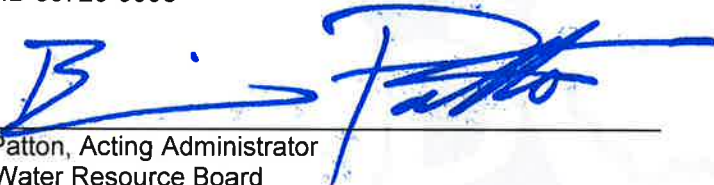
**WATER SUPPLY BANK LEASE CONTRACT No. 978**

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

**LESSOR:** J R SIMPLOT CO  
1099 W FRONT ST PO BOX 27  
BOISE, ID 83707-0027

By   
Title James B. Alderman Senior Vice President and Secretary  
Date October 7, 2019

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

By   
Brian Patton, Acting Administrator  
Idaho Water Resource Board

Date 10/9/2019

Lease approved by IDWR 

Date 10-9-2019

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## WATER SUPPLY BANK LEASE CONTRACT No. 978

### ATTACHMENT A WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

**Source and Location of Point(s) of Diversion for Water Right No(s): 2-2175A**

SNAKE RIVER                      L7SWSWNE              Sec. 36              Twp 01N              Rge 03W              CANYON County

| Water Right    | Beneficial Use | Season of Use |    |       | Diversion Rate (CFS) | Volume (AF) |
|----------------|----------------|---------------|----|-------|----------------------|-------------|
|                |                | From          |    | To    |                      |             |
| 2-2175A        | IRRIGATION     | 04/01         | to | 10/31 | 0.56 cfs             | 370.8 AF    |
| <b>Totals:</b> |                |               |    |       | 0.56 cfs             | 370.8 AF    |

**PLACES OF USE TO BE IDLED UNDER THIS LEASE: 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  |        |
| 01N | 02W | 20  |     |     |     |      | 2.4 | 3.0       | 4.3       | 1.1 |    |    |    |    |     |    |    |     | 10.8   |
| 01N | 02W | 29  |     |     |     |      |     |           | 4.0       |     |    |    |    |    |     |    |    |     | 4.0    |
| 01N | 02W | 30  | 3.0 | 3.8 | 4.0 | 3.2  | 3.0 | 4.5<br>L1 | 3.4<br>L2 | 2.0 |    |    |    |    |     |    |    |     | 26.9   |
| 01N | 03W | 24  | 4.7 | 2.3 | 1.8 | 3.5  |     |           |           |     |    |    |    |    | 5.3 |    |    | 5.7 | 23.3   |
| 01N | 03W | 25  | 7.4 |     |     | 10.0 |     |           |           |     |    |    |    |    |     |    |    |     | 17.4   |

Total Acres: 82.4

### ADDITIONAL CONDITIONS OF ACCEPTANCE

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

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

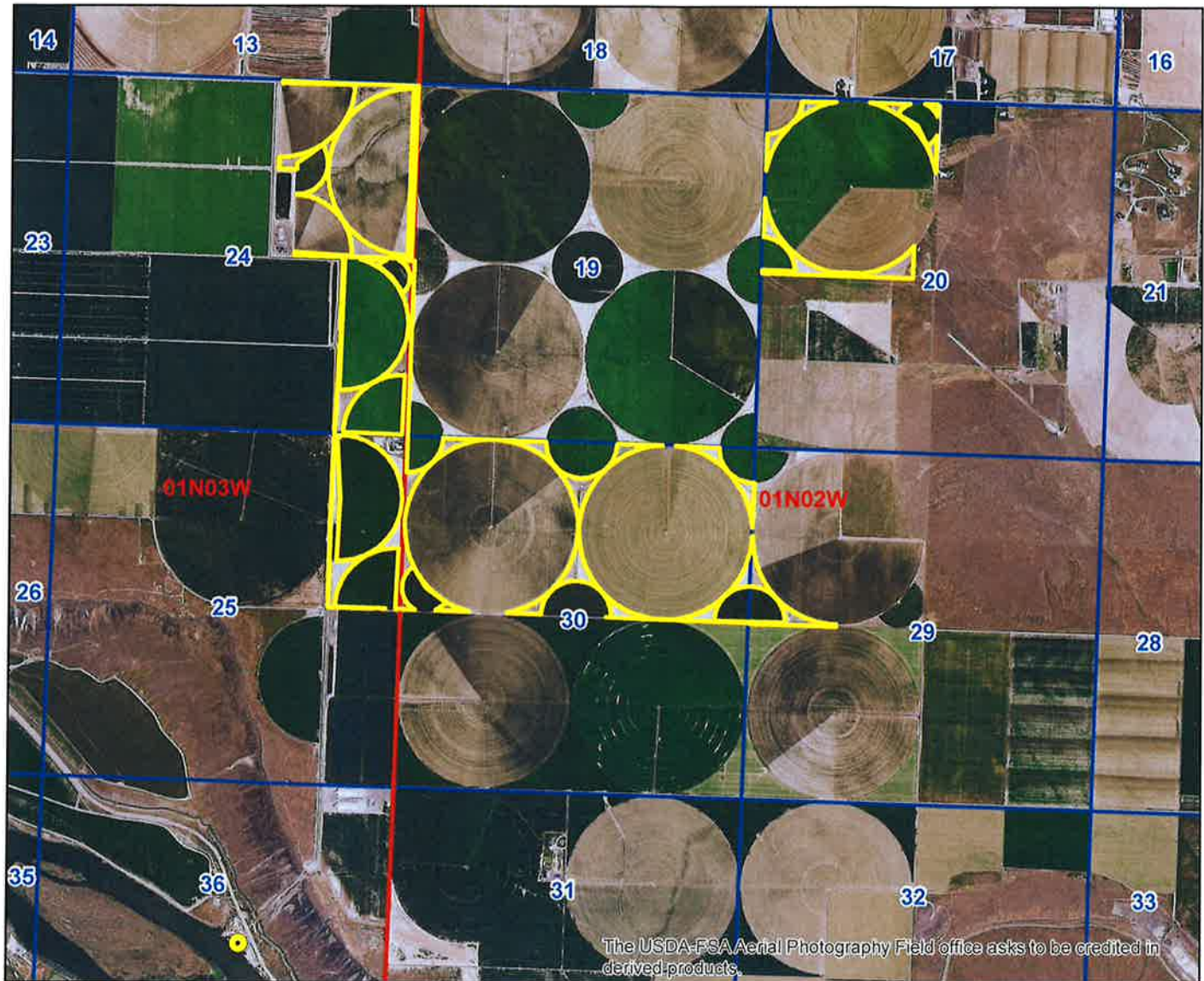
**WATER SUPPLY BANK LEASE CONTRACT No. 978**

7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
  - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
  - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
13. The following rights are also diverted through point of diversion described above: 02-104, 02-2175D, 02-2175E, 02-2197A, 02-10054, and 02-10055, 2-10029, 10456, and 2-10059.
14. The unleased portions of right 2-2175A, when combined with right 2-10462, shall not exceed a total diversion rate of 0.02 cfs per acre.

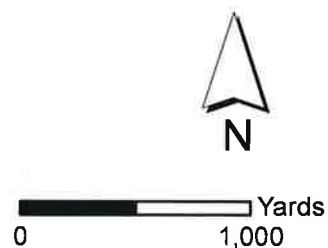
Idaho Water Resource Board  
Attachment to Water Supply Bank Lease Contract No. 978

Effective until December 31, 2021

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



- Lease\_Portion\_2\_2175A
- POD
- Township/Range
- Sections



STATE OF IDAHO  
WATER RESOURCE BOARD

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

**RECEIVED**

**FEB 13 2019**

DEPARTMENT OF  
WATER RESOURCES

**Designated Applicant** J. R. Simplot Company

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

**Water Right No.** 2-2175A

(One water right per application)

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

Yes ☒ No ☐

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

**MINIMUM REQUIREMENT CHECKLIST**

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

**Yes**

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

**Attachment N/A Yes**

- |    |                                     |                                     |                                                                                                                                                                                                                                                                                                                                                        |
|----|-------------------------------------|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1A | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Signatures and contact information for <i>all owners</i> of the water right to be leased or sold on this application.                                                                                                                                                                                                                                  |
| 1B | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant.                                                                                                                                                                                                                                                                        |
| 1C | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <i>Notice of Change in Water Right Ownership</i> form (accessible from <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> ).                                                                                                                                                                                                                   |
| 1D | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Description of a water right portion offered to the Water Supply Bank.                                                                                                                                                                                                                                                                                 |
| 3  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> .                                                            |
| 4A | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Written consent from irrigation district or water delivery company.                                                                                                                                                                                                                                                                                    |
| 4G | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> .                                                                                                                                                                                                                                       |

**Department Use Only**

|                                                                                                         |                        |                               |                          |
|---------------------------------------------------------------------------------------------------------|------------------------|-------------------------------|--------------------------|
| Fee Amount \$ <u>250</u>                                                                                | Received By: <u>RW</u> | Date Received: <u>2/13/19</u> | Receipt # <u>C106251</u> |
| W-9 received? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Route W-9 to Fiscal) |                        | Name on W-9:                  |                          |

1342

STATE OF IDAHO  
WATER RESOURCE BOARD

**APPLICATION TO SELL OR LEASE A WATER RIGHT**  
(Continued)

**1. CONTACT INFORMATION**

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

Designated Applicant J. R. Simplot Company

Mailing Address P. O. Box 27, Boise, Idaho 83707

Street City State Zip Code

Email Address vic.conrad@simplot.com

Phone Number 208-780-7359

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

OR

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

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

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

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

Name of Representative \_\_\_\_\_ Organization \_\_\_\_\_

Professional Title \_\_\_\_\_ Email Address \_\_\_\_\_

Mailing Address \_\_\_\_\_ Phone Number \_\_\_\_\_

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

OR

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

**2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK**

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

OR

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

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

**3. MAP**

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

STATE OF IDAHO  
WATER RESOURCE BOARD

**APPLICATION TO SELL OR LEASE A WATER RIGHT**  
(Continued)

**4. GENERAL INFORMATION**

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒  
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).

*If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.*

- B. Please provide a description of the current water diversion and delivery system.

Snake River Pump Station, Penstock, Pipelines

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. IDWR Water Right Permit No. 2-10462. 2-10462 will not be leased to the Water Supply Bank and Water under 2-10462 will not be used during the term of the lease on the leased place of use.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒  
*Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.*

- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒  
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. \_\_\_\_\_

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. 10.4 cfs.

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

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?

If yes, describe.

Yes ☐ No ☒

STATE OF IDAHO  
WATER RESOURCE BOARD

**APPLICATION TO SELL OR LEASE A WATER RIGHT**  
(Continued)

**5. SALE/LEASE AGREEMENT**

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

If lease, specify the years when the use of water will be suspended: 2019 to 2024 (maximum lease period 5 calendar years).  
(Year) (Year)

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

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

The Designated Applicant acknowledges the following:

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

  
\_\_\_\_\_  
Signature of Designated Applicant

James B. Alderman, Secretary

\_\_\_\_\_  
Printed Name

2-11-19

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

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

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**ATTACHMENT 1A**

**Additional Water Right Holders Party to the Lease Application**

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). Attachment 1A not applicable.

|                              | <b>Designated Applicant</b>                                                                          | <b>Applicant #2</b>                                                           | <b>Applicant #3</b>                                                           |
|------------------------------|------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <b>Name</b>                  |                                                                                                      |                                                                               |                                                                               |
| <b>Mailing Address</b>       |                                                                                                      |                                                                               |                                                                               |
| <b>Phone Number</b>          |                                                                                                      |                                                                               |                                                                               |
| <b>Email Address</b>         |                                                                                                      |                                                                               |                                                                               |
| <b>Applicant Declaration</b> | As Designated Applicant, I submit this lease application on behalf of all other water right holders. | I authorize the Designated Applicant to submit this application on my behalf. | I authorize the Designated Applicant to submit this application on my behalf. |
| <b>Signature</b>             |                                                                                                      |                                                                               |                                                                               |

|                              | <b>Applicant #4</b>                                                           | <b>Applicant #5</b>                                                           | <b>Applicant #6</b>                                                           |
|------------------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <b>Name</b>                  |                                                                               |                                                                               |                                                                               |
| <b>Mailing Address</b>       |                                                                               |                                                                               |                                                                               |
| <b>Phone Number</b>          |                                                                               |                                                                               |                                                                               |
| <b>Email Address</b>         |                                                                               |                                                                               |                                                                               |
| <b>Applicant Declaration</b> | I authorize the Designated Applicant to submit this application on my behalf. | I authorize the Designated Applicant to submit this application on my behalf. | I authorize the Designated Applicant to submit this application on my behalf. |
| <b>Signature</b>             |                                                                               |                                                                               |                                                                               |

**STATE OF IDAHO  
WATER RESOURCE BOARD**

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

**ATTACHMENT 2**

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

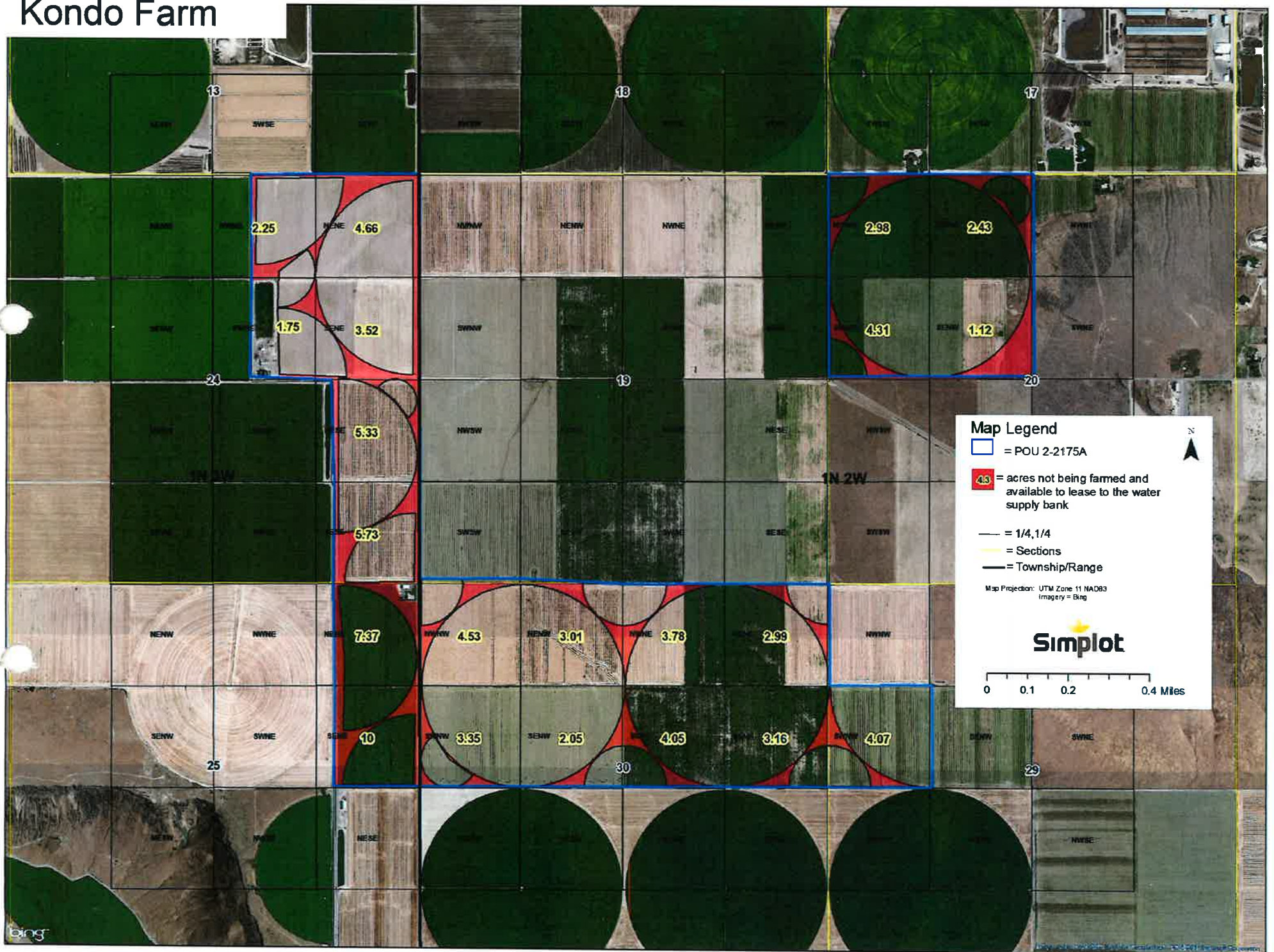
| 1. <u>Water Right Number</u> | <u>Nature of Use</u> | <u>Leased Rate</u><br>(cfs) | <u>Leased Volume</u><br>(af) | <u>Leased Acres</u><br>(ac) |
|------------------------------|----------------------|-----------------------------|------------------------------|-----------------------------|
| 2-2175A                      | Irrigation           | 1.15                        |                              | 82.44                       |
|                              |                      |                             |                              |                             |
|                              |                      |                             |                              |                             |
|                              |                      |                             |                              |                             |
|                              |                      |                             |                              |                             |
| Total Amounts:               |                      |                             |                              |                             |

2. Source of water Snake River tributary to Columbia River

3. Point(s) of diversion:

| Twp | Rge | Sec | Lot | ¼  | ¼  | ¼  | County |
|-----|-----|-----|-----|----|----|----|--------|
| 1N  | 3W  | 36  | 7   | SW | SW | NE | Canyon |
|     |     |     |     |    |    |    |        |
|     |     |     |     |    |    |    |        |
|     |     |     |     |    |    |    |        |
|     |     |     |     |    |    |    |        |
|     |     |     |     |    |    |    |        |
|     |     |     |     |    |    |    |        |

# Kondo Farm





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](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

October 9 2019

J R SIMPLOT CO  
PO BOX 27  
BOISE ID 83707-0027

**RE: WATER SUPPLY BANK LEASE CONTRACT 978  
FOR WATER RIGHT 2-2175A**

Dear Lessor:

Water right **2-2175A** was leased into the Water Supply Bank (Bank) as of February 13, 2019, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2021**, unless the right is released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at [www.idwr.idaho.gov](http://www.idwr.idaho.gov). **Please note your water right may not be available for immediate release if it has been rented or is being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

If you have questions regarding this matter, please contact this office at 287-4800.

Sincerely,

Water Supply Bank

Enclosure: Executed Lease Contract

c: Nick Miller - IDWR Western Region



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

OCT 08 2019

DEPARTMENT OF  
WATER RESOURCES

October 7, 2019

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

**Re: Water Supply Bank Contract 978; IDWR Water Right 2-2175A.**

Dear Debbi:

Enclosed are duplicate partially executed originals of the above referenced contract. Please arrange for the signature of the Idaho Water Resource Board and the IDWR, then return one fully executed original to me.

Sincerely,

Vic Conrad  
Land, Water & Asset Recovery

Enclosures





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](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

September 25, 2019

J R SIMPLOT CO  
PO BOX 27  
BOISE ID 83707-0027

**RE: APPLICATION TO LEASE WATER RIGHT 2-2175A TO THE WATER SUPPLY BANK  
CONTRACT 978**

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

Dear Applicant:

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

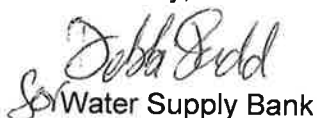
The right will automatically be released from the Bank on **December 31, 2021**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact this office at 287-4800.

Sincerely,

  
David Edd  
Water Supply Bank

Enclosures: Proposed Lease Contracts  
Receipt # C106251



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](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

April 19, 2019

VIC CONRAD  
J.R. SIMPLOT COMPANY  
P.O. BOX 27  
BOISE, ID 83707

RE: Water Supply Bank (Bank) Lease Applications for 2-2197A and 2-2175A, and rental application for 2-2175A.

Dear Applicant,

The Department of Water Resources (Department) received your applications for lease of 2-2197A and 2-2147A into the Bank, and rental of 2-2175A, on February 13, 2019. Upon initial review of your applications, the Department found that both of these rights are included in a combined condition on right 2-10462. This limit states that 2-10462, when used with 2-2175A, 2-2197A, 2-2175D, 2-2175E, 2-104, 2-10054, and 2-10456, is limited to a total diversion rate of 74.3 cfs, and the irrigation of 3,715 acres. Right 2-10462 is owned by the Basin Land Project, a tenancy in common, comprised of local land owners in the area who own the other rights listed on the combined limit. In reviewing the ownership change documentation for 2-2175A and 2-2197A, it appears J.R. Simplot Company, through the Warranty Deed signed for purchase of the appurtenant lands, also entered into the Basin Land Project.

According to Idaho Administrative Rule 37.02.03(30), the Department must evaluate all applications as to whether there will be injury to other water rights, or whether the proposal would constitute an enlargement of the water right. As result of this assessment, there are two primary concerns the Department has with leasing 2-2175A and 2-2197A into the Bank without also leasing the same portions of 2-10462.

The first concern is enlargement of other rights listed in the combined limit condition. If these portions of 2-10462 are not leased to the Bank, it could allow the other right holders to divert the proportional water of the leased acres to other acres. This would create a possibility of increased consumptive use.

The second concern is, if the proportional lands of 2-10462 are left idle as per your application, without the defense from forfeiture supplied by the Bank as per Idaho Code § 42-223(5), these acres could be subject to future forfeiture.

Possible solutions for the Department to move forward with processing these applications are;

1. Lease in proportionate acres and rate of 2-10462. The applicant can use attachment 1A of the Application to Sell or Lease a Water Right to the Water Supply Bank to have themselves assigned as the designated applicant. The form must also be signed by either all other members of the Basin Land Project or an official representative who holds signing authority for the tenancy in common. This will address enlargement concerns and possible future forfeiture concerns.
2. Apply for an ownership change and split of 2-10462 for the portions appurtenant to the land owned by J.R. Simplot Company. After the split is complete, the proportionate rate, volume, and acres can be leased to the Bank by J.R. Simplot Company. This will address enlargement concerns and possible future forfeiture concerns.
3. Lease 2-2175A and 2-2197A without proportionate amounts of 2-10462. The Bank would have to limit the rentable rate of 2-2175A and 2-2197A to address the enlargement concerns. This would not address possible future forfeiture concerns.
4. Lease 2-2175A and 2-2197A as un-rentable without proportionate amounts of 2-10462. This would address enlargement concerns but would not address possible future forfeiture concerns.

Copies of this letter have also been sent to the Basin Land Project and the listed attorney, John Marshall, in order to maintain full disclosure of any processes involving right 2-10462 moving forward.

Please provide a response as to how you would like the Department to move forward within 30 days of the date of this letter. If no response is received within 30 days, the application will be denied and no refund will be provided. If you have any further questions please contact me at 208-287-4915.

Sincerely,

SCOTT STORMS  
Senior Water Agent

Enclosure:  
Receipt #C106251

Cc: Basin Land Project  
John Marshall

## MEMORANDUM FOR APPLICATION # 1342

**To:** Water Right 2-2175A  
**Associated water rights: 2-10462**

**From:** Scott Storms

**Date:** April 4, 2019

**Re:** Review & Analysis of Application to Lease Water to the State Water Supply Bank

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**PURPOSE/NARRATIVE:** Application to lease right 2-2175A to the Water Supply Bank (the Bank) was received on February 13, 2019. This application was submitted as a lease/rental package with rental application #1343. The application was completed by Vic Conrad and signed by James B. Alderman, Secretary. The application proposes to rent a portion of the right to the bank, 1.14 cfs and 82.4 acres. Issues of forfeiture of right 2-10462 (owned by the Basin Land Project) were immediately apparent upon the initial review. Clay Webster and I had a phone conversation with Vic Conrad on April 9, 2019 to discuss these issues. Vic expressed he was not concerned about the overlapping portion of 2-10462. We told Vic that we will send him a letter outlining the situation and lease options, after initial review is complete.

Correspondence was sent to Vic and cc'd to the Basin Land Project and John Marshall (attorney listed for Basin Land Project) on April 19, 2019, outlining potential acceptable processes to move forward.

I received call back from Vic on April 24, 2019 stating he would like to move forward with option 3 from the correspondence and reduce the lease term to 3 years so as to alleviate concerns of future forfeiture of 2-10462. Option 3 was to lease the Simplot rights to the Bank and reduce rentable amounts by the diversion rate of 2-10462 pertinent to the leased acres in order to prevent enlargement of 2-10462.

**AUTHORITY TO FILE:** IDWR parcel records shows JR Simplot Company as the owner of the property at the place of use (POU). The application is signed by James B. Alderman, Secretary. James Alderman is listed as Secretary on the Idaho Secretary of State's annual business report. There are no issues with authority to file.

**WATER RIGHT VALIDITY:** A portion of this right was leased to the bank in 2015. During that review, it was determined that the entire POU was irrigated in 2013. Examination of 2014 Landsat data shows many of the pivot corners that were leased to the bank in 2015 were likely not irrigated in 2014, nor have they been since. Since the corners were not leased in 2014, were leased in 2015, and have not been since, these corners could be subject to forfeiture in 2020 if not otherwise protected or irrigated. Currently there are no concerns with validity of the water right and the portion offered to the Bank.

**INJURY TO OTHER WATER RIGHTS:** This water right is included as part of a combined limit flow rate on rights 2-2197A, 2-104, 2-10054, 2-10056 and 2-10462. Right 2-10462 was a right licensed in 2015 with the intent on bringing the place of use for all rights listed in conditions up to a standard flow rate of 0.02 cfs/acre. Part of the POU for 2-10462 covers the entirety of the POU for 2-2175A. The application states that the leased portions of the POU for 2-2175A will remain idled during the term of the lease and that no portions of 2-10462 will be leased to the Bank. The original application was for 5 years, which could subject the overlapping idle portion of 2-10462 to future forfeiture. Per letter correspondence and phone conversation with Vic Conrad, the lease term will be reduced to 3 years to help alleviate these concerns. He also

stated he will also contact John Marshall, attorney for the Basin Land Project, in order to pursue options for leasing the same portion of 2-10462 to the Bank.

**ENLARGEMENT OF USE:** The right offered to the bank is listed as part of a combined rate limit condition on 2-10462, owned by the Basin Land Project. If right 2-2175A is accepted into the bank, the combined rate limit of 2-10462 should be addressed so as not to allow enlargement of that right by other users within the Basin Land Project.

Per letter correspondence and conversation with Vic Conrad, it was decided that the rentable diversion rate for 2-2175A and 2-2197A will be reduced by the proportionate amount of 2-10462 on the leased acres. Right 2-10462 has a rate of 0.007 cfs per acre. Therefore the rentable amount for 2-2175A will be reduced by  $0.007 \times 82.4 = 0.58$  cfs in order to avoid enlargement of 2-10462.

**LOCAL PUBLIC INTEREST:** The primary public interest concern lies in those other landowners involved in the Basin Land Project and the owners of the other rights listed in the combined rate limit condition on 2-10462. The primary issue is that the portions of 2-10462 that overlap the leased portions of 2-2175A could be subject to forfeiture if the same portions of 2-10462 are not also leased to the Bank. The correspondence letter sent to Vic Conrad of J.R. Simplot Company, was also cc'd to the address on record for the Basin Land Project as well as John Marshall, attorney for the Basin Land Project. To date, I have not heard any response from John Marshall or the Basin Land Project. Vic stated he will be in contact with John Marshall.

**BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:** The lease appears consistent with the conservation of water resources in Idaho.

**DEPARTMENT STAFF OR WATERMASTER COMMENTS:** Email was sent to Nick Miller from the Western region, on April 26, 2019.



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

**February 12, 2019**

Mary Condon  
Water Resource Agent  
State of Idaho  
Department of Water Resources  
322 E. Front Street, Suite 648  
Boise, Idaho 83720

**RECEIVED**

**FEB 13 2019**

**DEPARTMENT OF  
WATER RESOURCES**

**Re: IDWR Water Rights 2-2175A and 2-2197A.**

Dear Mary:

Enclosed for filing are applications to lease certain portions of the above referenced water rights to the Water Supply Bank. In addition, I am including an application to rent the 82.44 acres of 2-2175A to the leased to the Bank for diversion at the existing Simplot pump station located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 8 T.6S, R.5E, B.M., Owyhee County, Idaho.

Please apply the enclosed \$500.00 check to cover your fees for filing the two lease applications.

Sincerely,

Vic Conrad  
Land, Water & Asset Recovery

c: R. Whitney by pdf image.

