

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 298

This is to certify that:

J R SIMPLOT CO
C/O VIC CONRAD
PO BOX 27
BOISE, ID 83707-0027

RECEIVED

MAR 20 2019

**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, tributary of the Columbia River	16.320	3,264.0	816.0	0.020	4.0
Combined Rental Totals			16.320	3,264.0	816.0	0.020	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, 2019. 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 2019, whichever occurs last.

Annual Rental Fee:

2019: \$6,528.00

The full fee for the rental of the above-described right(s) is \$6,528.00 for 2019. The rental fee includes an administrative fee of \$6,528.00 for 2019. Note that the renter is obligated to pay only the administrative fees associated with the water right(s): 2-10471.

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	10.909	3,264.0	816.0	0.013	4.0
Combined Total	10.909	3,264.0	816.0	0.013	4.0

*** The authorized water usage reflects a reduction from the water right elements rented, to account for combined limits on the rental Place of Use**

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 298

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

March 15, 2019

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

3/22/2019

Rental approved by IDWR



Date

3-22-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 298

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
10.909 CFS

VOLUME
3264.0 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		33.0		28.0									39.0	3.4	19.0	40.0	162.4
06S	05E	21			16.0		23.0		29.0	35.0	22.0	34.8	41.0	29.0		23.0			252.8
06S	05E	28					34.0	39.0	32.0	1.2									106.2
06S	05E	29	41.0	32.0	35.0	40.0				0.8	23.0			31.0	12.0	41.0	37.0	1.8	294.6

Total Acres: 816.0

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. The following rights are diverted through point of diversion described above: 2-10471, 2-10520 & 2-10521.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

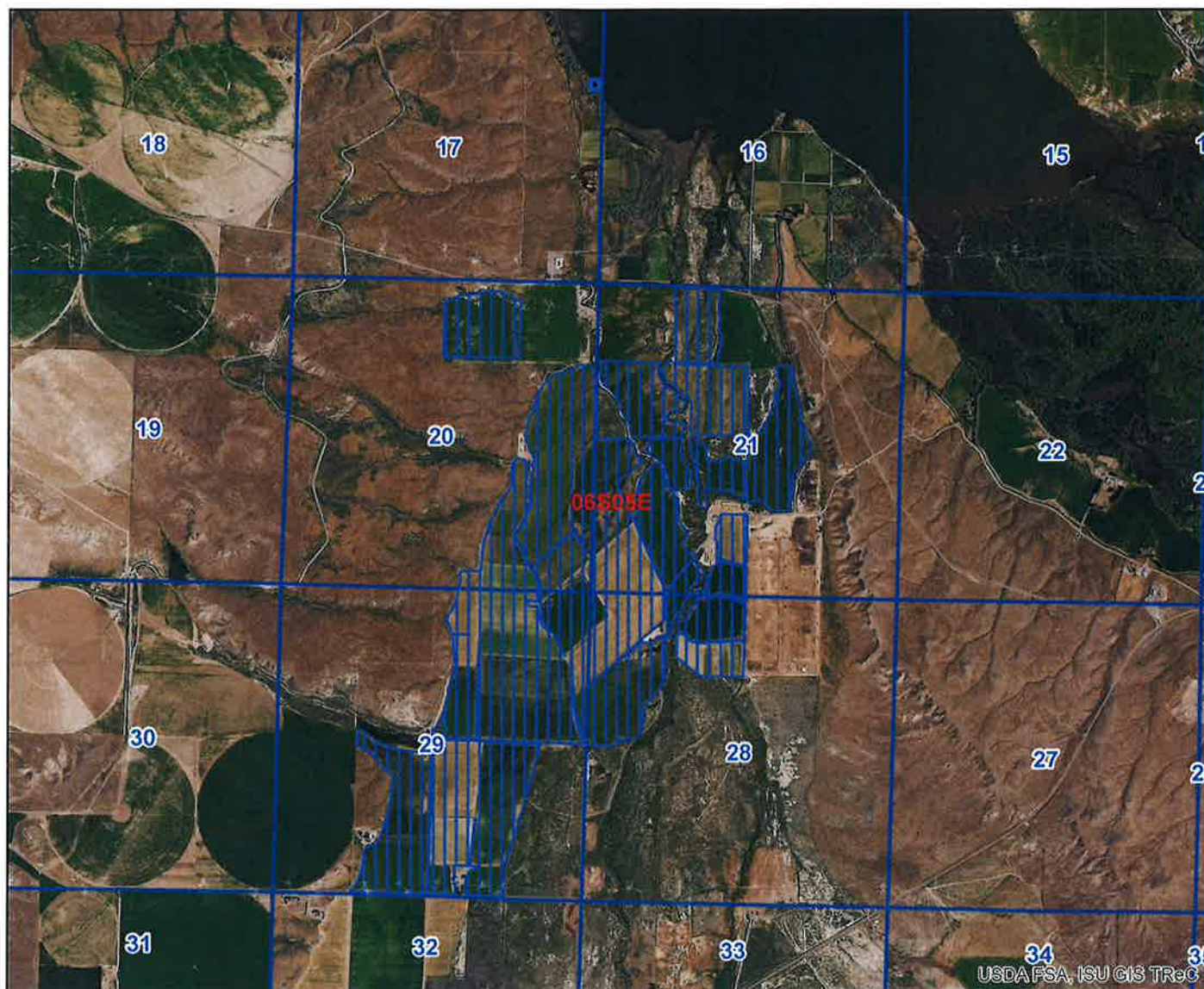
WATER SUPPLY BANK RENTAL AGREEMENT No. 298

10. This right is limited to the irrigation of 816 acres within the authorized place of use in a single irrigation season.
11. Rental of right 2-10471 when combined with Rights 2-10520 and 2-10521 shall not exceed a total diversion rate of 12.26 cfs, a total annual maximum diversion volume of 3,627.2 af, and the irrigation of 906.8 acres.
12. 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.
13. 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.
14. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
15. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 2.
16. Future rentals for the use authorized under this agreement may be subject to further review and notice requirements.

Idaho Water Resource Board
Attachment to Water Supply Bank Rental Agreement No. 298

Effective until December 31, 2019

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



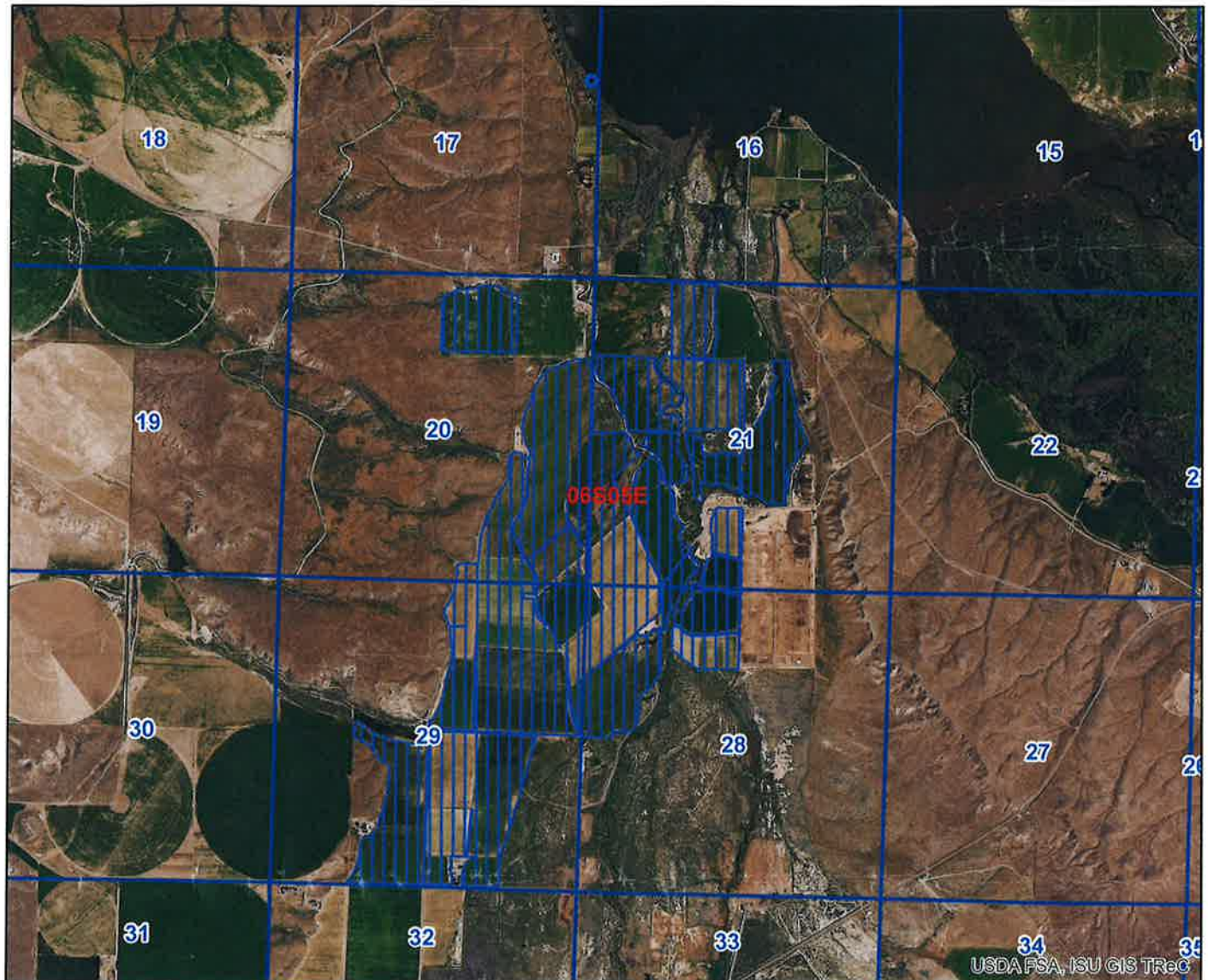
-  Water Supply Bank Rental POD
-  Water Supply Bank Rental POU
-  Township/Range
-  Sections



Idaho Water Resource Board
Attachment to Water Supply Bank Rental Agreement No. 298

Effective until December 31, 2019

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



USDA FSA, ISU GIS TRC

-  Water Supply Bank Rental POD
-  Water Supply Bank Rental POU
-  Township/Range
-  Sections



0 0.5 1 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

OCT 10 2018

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

1194

**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>	Boise	Idaho	83707
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? Yes ☐ No ☒

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

10-9-18

Date

Signature of Representative

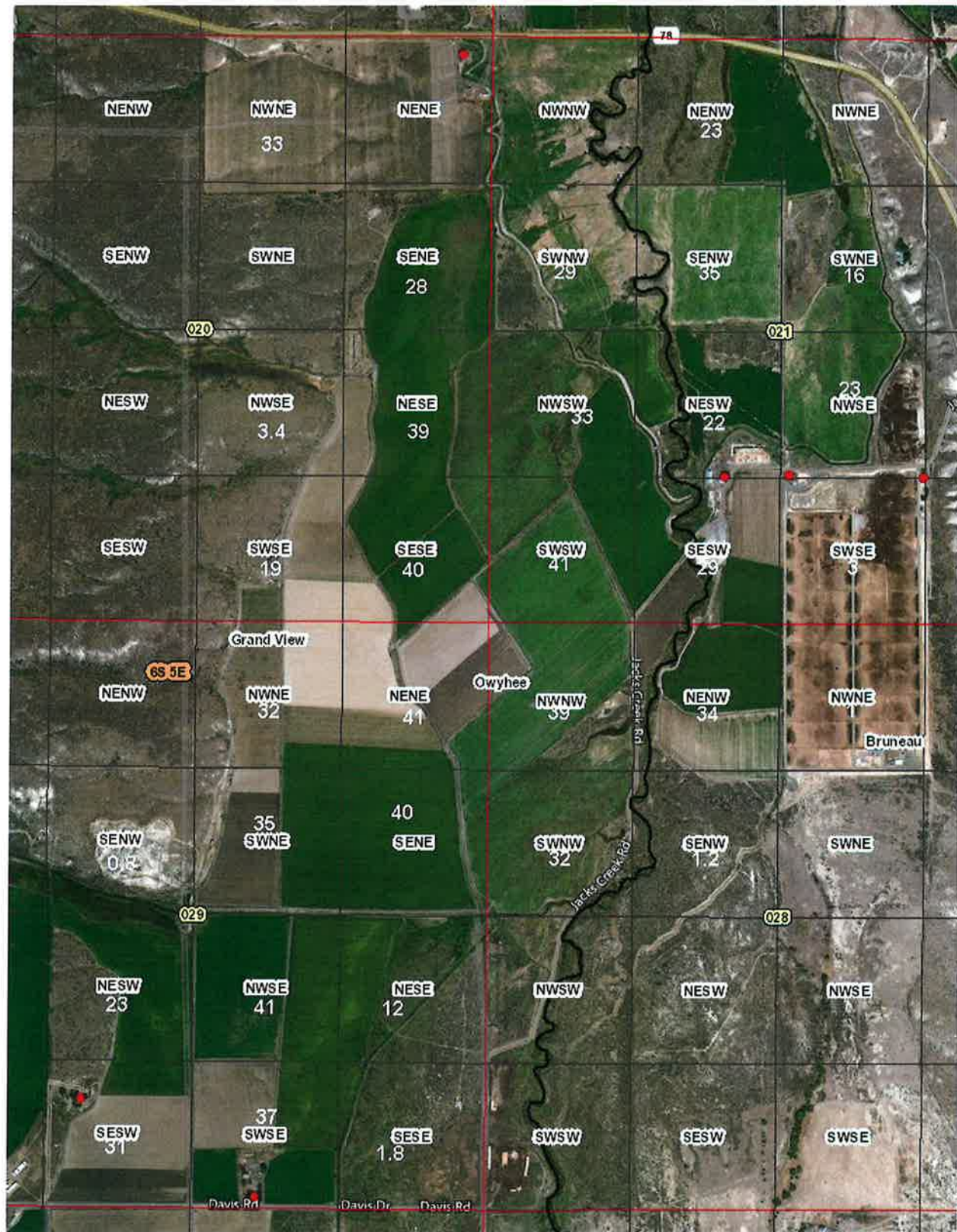
Printed Name of Representative

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



LICENSE AGREEMENT

J.R. Simplot Company Irrigation Pump Station & Water Line C.J. Strike Project Lands – Jack's Creek Wildlife Management Area

License No. 514

This License Agreement ("**License Agreement**"), is entered into as of this 29th day of January, 2015 ("**Effective Date**"), between Idaho Power Company, an Idaho corporation, and its successors, and assigns (collectively, "**Licensor**") and J.R. Simplot Company, a Nevada corporation, ("**Licensee**") with respect to the following:

A. Licensor owns that certain property located in Owyhee County, State of Idaho, as described in **Exhibit A** attached hereto and made a part hereof ("**Licensor's Property**"). Licensor's Property is located within the C.J. Strike Hydroelectric Project No. 2055 ("**Project**") boundary, pursuant to license ("**Project License**") issued by the Federal Energy Regulatory Commission ("**FERC**").

B. Licensee desires non-exclusive use of that portion of Licensor's Property described and depicted in **Exhibit B** attached hereto and made a part hereof ("**Premises**") for the limited purposes of installing, operating, maintaining and repairing as necessary an irrigation pump station, to include a water pumping system on C.J. Strike Reservoir, structural improvements, a buried water line, overhead and underground power lines, and other related and necessary structures and improvements ("**Licensee's Improvements**").

C. Licensor is agreeable to such limited use of the Premises subject to all of the terms and conditions herein.

Now therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grant of License.

a. Generally. Licensor grants to Licensee for One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, a non-exclusive license ("**License**") for the Term described in Section 3 below to use the Premises for purposes of installing, operating, maintaining and repairing as necessary Licensee's Improvements, to include ingress and egress to Licensee's Facilities, subject to the terms and conditions hereof and for no other purpose whatsoever. This license is personal to Licensee, solely for the benefit of Licensee and may be assigned by Licensee, subject to the provisions of Section 13 below. This License shall not be deemed to run with the land or in any other way create a perpetual interest in Licensee or Licensee's Agents, defined in Section 8 below, successors, or assigns or any person or entity other than Licensee.

b. Licensor's Reserved Rights. Licensor shall at all times have the full use of the Premises for any purpose it desires, provided however, that Licensor's use shall not

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unreasonably interfere with Licensee's use of the Premises as long as Licensee complies with the terms and conditions of this License, unless such interference is required to maintain compliance with the Project License. Licensee also acknowledges and agrees that there are other users of the Premises besides Licensor and Licensee, and Licensee's use of the Premises is non-exclusive with such other users, provided said other users do not unreasonably interfere with the exercise by Licensee of the rights granted to Licensee hereunder, unless such interference is required to maintain compliance with the Project License.

c. **Access to the Premises.** To access the Premises, Licensee shall be authorized to use the existing access road over that portion of Licensor's Property immediately adjacent to the Premises, said use being subject to all of the terms and conditions of this License. In exercising its right of access to the Premises, Licensee shall comply with any reasonable security procedures utilized by Licensor, and other conditions reasonably imposed by Licensor or of other Licensees or occupants of Licensor's Property. If Licensee causes any damage to Licensor's Property, including the access road, Licensee shall promptly repair the same to Licensor's satisfaction at Licensee's sole expense.

2. Intentionally deleted.

3. **Term.** The term of this License shall commence on the Effective Date and shall continue in full force and effect until (i) the parties mutually agree to terminate this License, (ii) Licensee in its sole discretion terminates this License, (iii) Licensor terminates this License upon Licensee's default as provided in Section 14, below, or (iv) Licensor terminates this License upon thirty (30) days' written notice to Licensee that this License is no longer consistent with the Project License ("Term").

Upon cancellation or termination of this License, Licensee shall, within ninety (90) days, remove at Licensee's expense all of Licensee's Improvements from the Premises, unless otherwise agreed upon by Licensee and Licensor in writing, and Licensee shall advise Licensee's Agents to immediately cease and desist in all use of the Premises and access across and over the Property. Any continued use of the Premises or Property after the termination of this License shall be considered trespass over the Property. Licensee shall leave the Premises in a condition at least as good as its condition prior to the execution of this License, ordinary wear and tear excepted. If Licensee fails to remove all of Licensee's Improvements within ninety (90) days, Licensor shall have the option at its sole discretion to take ownership of the improvements in place or to remove the improvements at the sole cost and expense of Licensee.

4. **AS IS/Assumption of Risk.** Licensee accepts the Premises and Licensor's Property in their "AS IS" condition together with all latent and patent defects and shall use the Premises completely at its own risk. Licensor makes no representation as to the condition or the safety of the Premises or Licensor's Property. Licensee and Licensee's Agents fully release and hold harmless Licensor and Licensor's Agents (as defined in Section 8 below) from and against any and all Claims (defined in Section 8 below) relating to Licensee's or Licensee's Agents' use of the Premises or by Licensee's negligent acts or omissions. Licensor shall not be liable for any Claims relating to the use of the Premises by other parties as contemplated in Section 1 above and Licensee shall use the Premises non-exclusively along with other parties at its own risk.

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Furthermore, Licensee shall: (a) advise all of Licensee's Agents in writing that their use of the Premises is subject to all of the provisions of this License Agreement, including, without limitation, the provisions of this Section 4, and their use of the Premises shall constitute their absolute acceptance of all risks associated therewith and their agreement to all provisions hereof. The provisions of this Section 4 shall survive the expiration or termination of this License.

5. **No Duty of Licensors to Repair and/or Maintain.** Licensors shall have no duty to repair, maintain, or improve the Premises or keep it in any sort of condition or repair. If, however, Licensors does undertake to repair, maintain, or improve the Premises, Licensors shall have the right to require reasonable financial contributions from Licensee.

6. **Covenants, Conditions, and Restrictions.** Licensee's use of the Premises is subject to all of the following covenants, conditions, and restrictions (in addition to all others set forth in this License Agreement):

a. **No Other Improvements.** Other than Licensee's Improvements, no facilities, improvements, personal property, fixtures, buildings, structures, or any similar classification of property may be placed on or around the Premises by Licensee without Licensors's prior written consent which may be withheld in Licensors's sole and absolute discretion.

b. **Licensee's Obligations to Keep Premises in Good Condition and Repair.** Licensee shall, at all times during the Term and at its expense, keep and maintain the Premises in a good and safe condition and shall ensure that the Premises does not have any unsafe conditions or hazards.

c. **Compliance with Rules and Laws.** Licensee shall promptly and at its sole expense comply with any requirements, rules, and regulations imposed by Licensors in connection with the use of the Premises. Licensee, shall, at Licensee's sole expense, at all times comply with all laws, rules, and regulations in connection with its use of the Premises.

d. **FERC License Conditions.** Notwithstanding anything in this License to the contrary, Licensee acknowledges and agrees that the Premises and Licensors's Property are within FERC Project boundaries and accordingly all uses, occupancies and rights of Licensee under this License are subject and subordinate to the terms and conditions of the Project License and to FERC regulations and orders. Licensee shall follow and comply with all Project License terms and conditions at its sole expense and shall be liable for any failure to do the same, including, but not limited to, the following terms and conditions:

(i) Licensee shall take all reasonable precautions to ensure that its use and occupancy of the Premises and its exercise of all of its rights hereunder will occur in a manner that will protect the scenic, recreational, and environmental values of the Project.

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(ii) Licensee's use of the Premises and exercise of its rights hereunder shall not endanger health, create a nuisance, or otherwise be incompatible with overall recreational use of the Project.

(iii) Licensee shall not unduly restrict public access to Project waters.

(iv) FERC, Licensor, or their successors and assigns shall have the right to take reasonable remedial action to correct any violation of the terms and conditions of this License or of the Project License for the protection and enhancement of the Project's scenic, recreational and other environmental values. Remedial action may include terminating this License.

(v) Licensee understands that Licensor is under no obligation to maintain Project water levels at any particular level and Licensee shall have no claims whatsoever against Licensor for damages or injury to any persons or property resulting from any fluctuation in Project water levels.

(vi) Conditions of Use. Licensee shall comply with and satisfy such additional conditions for use and development, installation, and operation of Licensee's Improvements, and continued use of the Premises, as set forth in **Exhibit C**, attached hereto and made a part hereof ("**Conditions of Use**").

7. **Hazardous Materials.** Licensee shall not use, store, release, handle, or permit the presence or release of any Hazardous Materials (as hereinafter defined) on the Premises except common household materials. "**Hazardous Materials**" collectively means and includes any and/or all of the following: (i) any of the substances, materials, elements or compounds that are contained in the list of hazardous substances or materials or related lists or classifications adopted by the United States Environmental Protection Agency ("**EPA**") from time to time and/or the list of toxic pollutants or related lists or classifications designated by the United States Congress or the EPA from time to time; (ii) any substances, materials, elements or compounds affected by or regulated by any Environmental Laws as defined below; (iii) any substances, materials, elements or compounds that pose a risk to human or species health or the environment; (iv) petroleum and/or its derivatives and products, unless said petroleum and/or derivatives are used in connection with the operation and maintenance of Licensee's Improvements in compliance with all Environmental Laws, asbestos and/or polychlorinated biphenyls (PCBs); and (v) any flammable or other explosives, radioactive materials, corrosive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, infectious materials or any other related substances, materials, elements or compounds as defined in (or affected or regulated by) any laws, rules, regulations, ordinances, codes, rules, now or hereinafter enacted relating to pollution, toxins, hazardous materials, hazardous substances, protection of human and species health, and/or the environment, as any of the same may now or in the future be amended, supplemented or modified (collectively, "**Environmental Laws**").

8. **Indemnification.**

Licensee shall indemnify and hold Licensor harmless from and against any and all losses, costs, expenses, liabilities, damages, claims, demands, proceedings and causes of action, including, but not limited to, attorney fees, arising under this License Agreement or in connection with Licensee's exercise of its license rights.

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9. Insurance. Licensee (and all of Licensee's Agents, as a condition to using the Premises) shall maintain, at all times during the term of this License and at its own expense, at least the following insurance:

General Liability insurance covering both bodily injury and property damage with limits totaling at least \$5,000,000 per occurrence and in the annual aggregate. Coverage shall be with companies carrying an A.M. Best rating of A- or better. Licensee shall issue a certificate of such insurance evidencing required coverage and naming Licensors as an additional insured and evidence of Excess Workers Compensation insurance for its employees. Such insurance coverage shall not be cancelable without thirty (30) days prior notice to Licensors.

Licensee's Agents that enter the Property and/or Premises shall carry General Liability insurance, including Auto Liability coverage, with limits of at least \$1,000,000 covering the services performed for Licensee. Licensee's Agents shall also have Workers Compensation coverage in place covering their employees consistent with Idaho Statutory requirements. All policies shall be endorsed with a waiver of subrogation in favor of Licensors. Licensee's Agents shall have Licensors named as an additional insured on the policies, and shall provide Licensors with a certificate of insurance evidencing this coverage. Furthermore, prior to entering Licensors' property, Licensee and Licensee's Agents, shall each execute a waiver and release of any and all claims against Licensors for any liability whatsoever, in a form that is acceptable to Licensors.

10. Licensee's Agents. All of Licensee's Agents shall use the Premises only in strict accordance with all of the terms and conditions of this License and Licensee shall be liable for any failure of Licensee's Agents to abide by the same and such failure shall constitute a breach of this License Agreement by Licensee.

11. No Agency or Partnership. This License Agreement shall not be construed or deemed to create or give rise to any partnership, joint venture, agency, or employer-employee relationship between the parties hereto.

12. Notices and Delivery. Any notice, demand, request, consent or approval given under this License Agreement shall be in writing and shall be deemed given and delivered on the date when personally delivered or, if mailed, four (4) days after deposit in the United States mail, in a sealed envelope, by registered or certified mail, return receipt requested, with postage prepaid, addressed to the appropriate party at the address set forth below:

LICENSOR:

Idaho Power Company
Corporate Real Estate Dept.
P.O. Box 70 (83707)
1221 W. Idaho St.
Boise, ID 83702
Phone: (208) 388-2200

LICENSEE:

J.R. Simplot Company
Attn: Corporate Secretary
999 Main Street, Ste. 1300
Boise, Idaho 83702
Phone: (208) 336-2110

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The above addresses for Licensor and Licensee shall be effective unless and until changed by written notice given to the other party. The parties acknowledge and agree that the phone numbers provided above are for convenience purposes only but that notices hereunder must be personally delivered or mailed as provided above.

13. Assignment or Transfers. This License shall not be assigned or transferred, nor shall any portion of said Premises be sublet, by Licensee without Licensor's prior written consent which consent shall not be unreasonably withheld.

14. Default. Licensee shall be deemed in default under this License if any of the following shall occur:

(a) Licensee fails to comply with any of the covenants, terms, or conditions of this License, and such failure continues for twenty (20) days after Licensee's receipt of written notice thereof, provided however that if the nature of the default is such that the same cannot reasonably be cured within said twenty (20) day period, Licensee shall not be deemed to be in default if Licensee, within such 20-day period, commences cure of such default and thereafter diligently prosecutes the same to completion;

(b) Licensee assigns this Lease or any interest herein or sublets all or any part of the Premises without Licensor's prior written consent; or

(c) Licensee abandons the Premises.

15. Remedies. In the event of any default by Licensee, Licensor shall have all rights and remedies at law or in equity (in addition to remedies specified in this License), and all of said remedies shall be cumulative. Without limiting the foregoing, Licensor shall have the option to do one or more of the following: (a) terminate this Lease; (b) require Licensee to immediately to surrender possession of the Premises to Licensor; (c) without process of law, to reenter, reoccupy, take possession of the Premises and remove all persons and property from the Premises at Licensee's expense; (d) operate the Premises, making such repairs, restoration and improvements as may, in Licensor's sole judgment, and at Licensee's expense, be appropriate to restore the Premises to a condition at least as good as its condition as existed as of the Effective Date, normal wear and tear excepted; and (e) re-license the Premises. Licensee hereby waives any demand for surrender in connection with any action or suit against Licensee in ejectment or forcible detainer.

16. Miscellaneous.

a. **Severability.** If any provision of the License Agreement is held to be invalid or unenforceable by a court of competent jurisdiction with respect to any party, the remainder of this License Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable shall not be affected, each provision of this License Agreement shall be valid and enforceable to the fullest extent permitted by law.

b. **Binding Effect.** Each party represents and warrants that said party has full power and authority, and the person(s) executing this License Agreement have full power

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and authority, to execute and deliver this License Agreement, and that this License Agreement constitutes a valid and binding obligation of each party, enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or other laws affecting the enforcement of creditor's rights generally and by general equitable principles (whether enforcement is sought in proceedings in equity or at law). This License Agreement shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.

c. **Waivers.** No provision of this License Agreement shall be deemed to have been waived by a party unless the waiver is in writing and signed by the party against whom enforcement of the waiver is attempted. No custom or practice which may develop between the parties in the implementation or administration of the terms of this License Agreement shall be construed to waive or lessen any right to insist upon strict performance of the terms of this License Agreement.

d. **Governing Law.** This License Agreement shall be governed by and construed in accordance with the laws of the State in which the Premises is located.

e. **Attorneys' Fees and Costs.** In the event of any litigation between the parties to this Agreement in connection with the interpretation or enforcement of this Agreement, the prevailing party in such litigation shall be entitled to reasonable attorneys' fees, and all other litigation related expenses, including, without limitation, court costs, expert fees, investigation, discovery, and travel fees (whether incurred at the trial, appellate or administrative level). All such fees shall be deemed to have accrued as of the commencement of such action and shall be in such amounts as the court or administrative body may judge reasonable, all of which may be incorporated into and be a part of any judgment or decision rendered in such litigation.

f. **Survival.** Terms and conditions of this License Agreement, which by their sense and context survive the termination, cancellation, or expiration of this License Agreement will so survive.

g. **Entire Agreement; Amendments.** This License Agreement constitutes the entire agreement and understanding between the parties regarding Licensee's use of the Premises and supersedes all prior and contemporaneous offers, negotiations, and other agreements concerning the subject matter contained herein. There are no representations or understandings of any kind not set forth herein. Any amendments to this License Agreement must be in writing and executed by duly authorized representatives of both parties.

h. **No Presumptions Regarding Preparation of License Agreement.** The parties acknowledge and agree that each of the parties has been represented by counsel or has had full opportunity to consult with counsel and that each of the parties has participated in the negotiation and drafting of this License Agreement. Accordingly it is the intention and agreement of the parties that the language, terms, and conditions of this License Agreement are not to be construed in any way against or in favor of any party hereto by reason of the roles and responsibilities of the parties or their counsel in connection with the preparation of this License Agreement.

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I. **Section Headings.** The headings and captions of the paragraphs and sections of this License Agreement, and table of contents and/or index if included, are for convenience and reference only and in no way define, describe, or limit the scope or intent of this License Agreement or any of the provisions hereof.

J. **Exhibits.** All exhibits referenced herein are attached to the License Agreement and incorporated into the terms of the License Agreement.

IN WITNESS WHEREOF, the parties have executed this License Agreement as of the date first set forth above.

LICENSOR:

IDAHO POWER COMPANY,
AN IDAHO CORPORATION

By:

Carolyn Boek
Director, Corporate Real Estate

Date:

February 6th, 2015

LICENSEE:

J.R. SIMPLOT COMPANY,
A NEVADA CORPORATION

By:

David Spurling
Senior Vice President, Secretary and
General Counsel

Date:

29 JAN 2015

LIST OF EXHIBITS:

Exhibit A – Licensor's Property

Exhibit B – Premises

Exhibit C – Conditions of Use

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License Agreement – IPC as Licensor
License Name: Simplot Irrigation Pump at C.J. Strike Reservoir WMA
License No.: 514

EXHIBIT A
Licensors's Property

A parcel of real property located in Sections 16 and 17, Township 6 South, Range 5 East, Boise Meridian, Owyhee County, Idaho, being more particularly described below:

All that real property located in Section 16, Township 6 South, Range 5 East, Boise Meridian, to include:

The W1/2 of the NW1/4; and

The W1/2 of the SW1/4.

And also,

All that real property located in Section 17, Township 6 South, Range 5 East, Boise Meridian, to include:

The East Half (E1/2) of the South East Quarter (SE1/4) and the South Seven Eighths (S7/8ths) of the Southeast Quarter of the Northeast Quarter (SE1/4NE1/4).

End of Description.

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EXHIBIT B
Page 1 of 2

Premises

The Premises are comprised of an irregular-shaped parcel of land and an area for a water line and power line across Licensor's Property, all being located on a portion of Licensor's Property and as depicted on the attached drawing.

[Refer to attached drawing for Premises location and particulars.]

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December 12, 2014



Exhibit B
Page 2 of 5

**J.R. SIMPLOT LAND & LIVESTOCK
JACK'S CREEK IRRIGATION
PIPELINE LICENSE**

A 20 foot wide license across a portion of the West $\frac{1}{2}$ of Section 16 and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 17 situated in Township 6 South, Range 5 East, Boise Meridian in Owyhee County, Idaho. Said 20 foot wide license being centered on the following described line:

Commencing at the Southwest corner of said Section 16, being marked by 5/8" rebar and cap, thence along the section line common to said Sections 16 and 17, North $0^{\circ}01'51''$ West 40.00 feet to a point on the north right-of-way line of State Highway 78, thence along said north right-of-way line South $89^{\circ}15'16''$ East 81.07 feet, to the **POINT OF BEGINNING**, thence leaving said north right-of-way line

North $0^{\circ}12'00''$ West 17.97 feet to a point, thence

North $22^{\circ}42'17''$ West 156.18 feet to a point, thence

North $0^{\circ}12'17''$ West 2555.05 feet to a point, thence

North $23^{\circ}37'52''$ West 32.90 feet to a point on said section line common to said Sections 16 and 17, thence continuing into said Section 17

North $23^{\circ}37'52''$ West 588.00 feet to a point on the southerly line of a pump station license being the **POINT OF TERMINUS**.



Exhibit B
Page 3 of 5

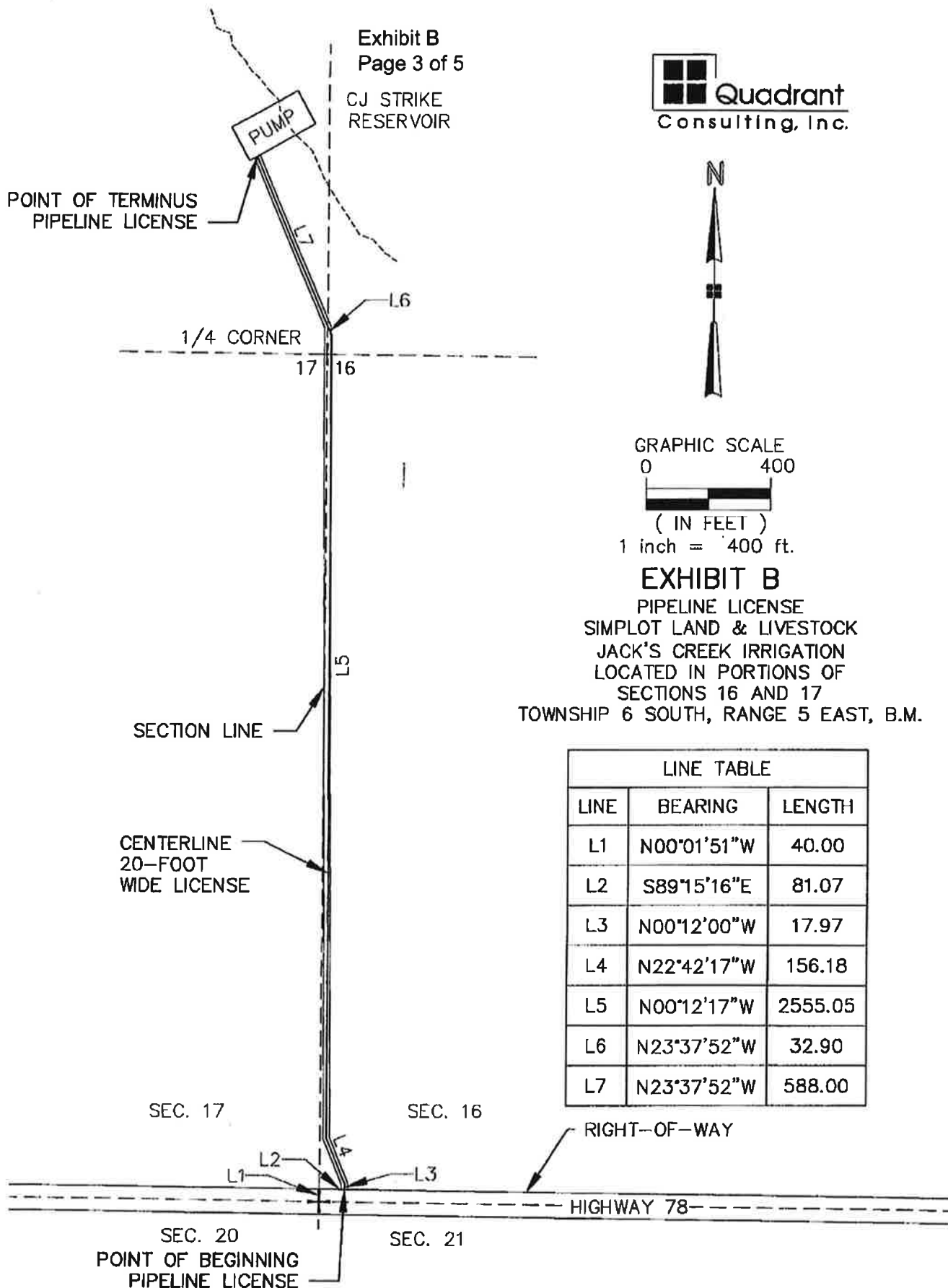
CJ STRIKE
RESERVOIR



GRAPHIC SCALE
0 400
(IN FEET)
1 inch = 400 ft.

EXHIBIT B
PIPELINE LICENSE
SIMPLOT LAND & LIVESTOCK
JACK'S CREEK IRRIGATION
LOCATED IN PORTIONS OF
SECTIONS 16 AND 17
TOWNSHIP 6 SOUTH, RANGE 5 EAST, B.M.

LINE TABLE		
LINE	BEARING	LENGTH
L1	N00°01'51"W	40.00
L2	S89°15'16"E	81.07
L3	N00°12'00"W	17.97
L4	N22°42'17"W	156.18
L5	N00°12'17"W	2555.05
L6	N23°37'52"W	32.90
L7	N23°37'52"W	588.00



November 21, 2014



Exhibit B
Page 4 of 5

**J.R. SIMPLOT LAND & LIVESTOCK
JACK'S CREEK IRRIGATION
PUMP STATION LICENSE**

An license across a portion of the SE ¼ of the NE ¼ of Section 17 situated in Township 6 South, Range 5 East, Boise Meridian in Owyhee County, Idaho being more particularly described, as follows:

Commencing at the Southeast corner of said Section 17, being marked by 5/8" rebar and cap, thence along the section line common to Sections 16 and 17 of said Township and Range, North 0°01'51" West 2697.06 feet to the ¼ corner common to said sections, thence continuing along said section line North 0°06'15" West 731.81 feet to a point, thence leaving said section line South 89°53'45" West 46.13 feet to the **POINT OF BEGINNING**, thence

South 61° 07' 07" West 242.00 feet to a point, thence

North 28° 52' 53" West 120.00 feet to a point, thence

North 61° 07' 07" East 242.00 feet to a point, thence

South 28° 52' 53" East 120.00 feet to the **POINT OF BEGINNING**.

Said license contains 29,040 square feet or 0.667 acres, more or less.



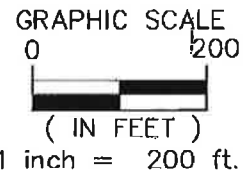
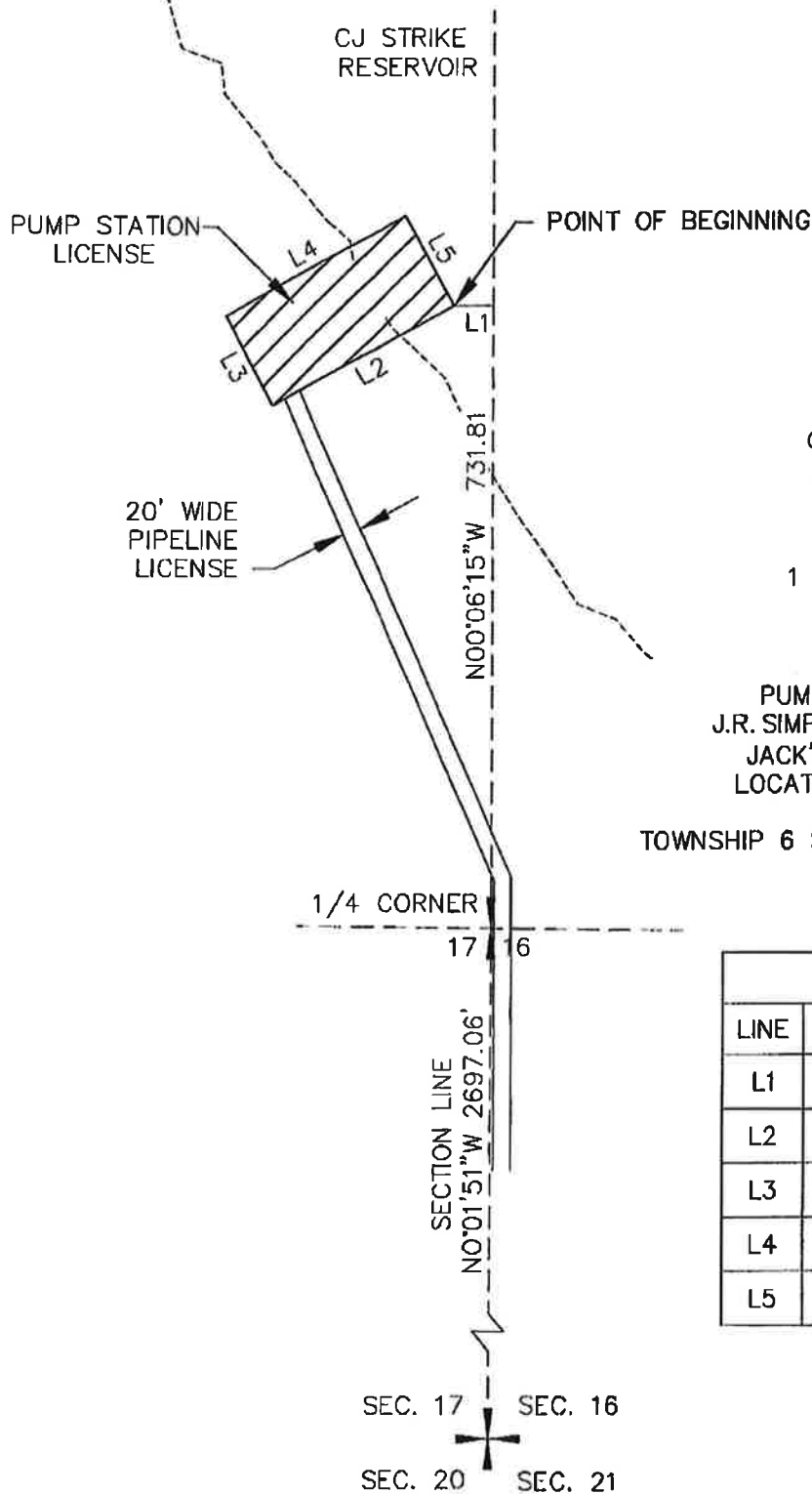


EXHIBIT B
PUMP STATION LICENSE
J.R. SIMPLOT LAND & LIVESTOCK
JACK'S CREEK IRRIGATION
LOCATED IN A PORTION OF
SECTION 17
TOWNSHIP 6 SOUTH, RANGE 5 EAST, B.M.

LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°53'45"W	46.13
L2	S61°07'07"W	242.00
L3	N28°52'53"W	120.00
L4	N61°07'07"E	242.00
L5	S28°52'53"E	120.00

EXHIBIT C

Conditions of Use

1. **Soil Disturbance/Revegetation.** During the Term of this License, and any renewal Term, if Licensee's activity on the Property or the Premises results in disturbed soils and/or plant damage, Licensee shall, at Licensee's sole cost and expense, reseed any disturbed areas using a planting/seed mix approved by Licensor and in a manner approved by Licensor. Licensor, at Licensor's sole discretion, may require Licensee to develop and implement a revegetation plan that is agreeable to both parties. To facilitate revegetation, Licensee shall stockpile material excavated during maintenance activities and shall use said material as backfill for the excavated area. Excess material shall be disposed at an offsite location outside the Project boundary and the Property. Should Licensee's revegetation efforts for any disturbed area fail, Licensee, upon receipt of an invoice from Licensor, agrees to reimburse Licensor for Licensor's time and materials used for revegetation.

2. **Shoreline Stabilization.** Licensee shall install stone rip rap to ensure structural stabilization of any shoreline areas that are disturbed as a result of Licensee's or Licensee's Agents use of the Premises or Property. Licensee shall employ all reasonable measures to avoid shoreline erosion caused by its equipment and employees and shall monitor the shoreline areas of the Premises to ensure operation, maintenance and or repair activities do not contribute to future shoreline erosion or destabilization. Should Licensor or Licensee identify any shoreline erosion or destabilization adjacent to the Premises, Licensor shall set forth remediation measures which Licensee shall immediately institute to remediate any erosion or destabilization. Licensee's trucks shall not drive below the high water line of the reservoir adjacent to the Premises.

3. **Storage on Premises.** Licensee shall not store any building, construction and/or pumping materials or machinery on the Premises. Licensee shall dispose of all materials, to include screened aquatic vegetation, silt, or other spoils associated with Licensee's construction, operation, maintenance or repair of the Premises and Licensee's Improvements, outside the Premises, Licensor's Property and FERC Project Boundary.

4. **Weed and Noxious Weed Control.** Licensee, at its sole cost and expense, shall be responsible for maintenance and upkeep of the Premises, to include the control of weeds and noxious weeds in accordance with local, state and federal laws and regulations. Licensee shall, at its sole cost and expense, control noxious weeds in the Project Waters immediately adjacent to the Premises. Licensor is available to control noxious weeds on the Premises provided Licensee requests Licensor's assistance to control noxious weeds and pays Licensor for all time and materials costs. Licensee is responsible for monitoring and removing aquatic weeds from the Premises and Project Waters adjacent to the Premises and disposing of any such aquatic weeds at an offsite location.

5. **Cultural Resource Protection.** Licensee shall comply with the following stipulations for the protection of cultural resources on the Premises and Licensor's Property:

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a. Licensee shall restrict all construction, operations, maintenance, and repair activities to the Premises and Access Road.

b. Subsequent to installation of Licensee's Improvements, Licensee's activities for the continued operation, maintenance and repair of Licensee's Improvements within the Premises shall be limited to pedestrian and vehicular access (excluding heavy or tracked equipment unless heavy or tracked equipment is necessary to repair replace or re-construct any of Licensee's Improvements during the term of this License, in which case Licensee will obtain Licensors prior approval for each such use).

c. Any modification, alteration, or addition to Licensee's Improvements shall comply with and be approved by Licensors pursuant to the project approval process defined in the Idaho Power Company C.J. Strike Historic Properties Management Plan (HPMP). Licensee agrees to request Licensors approval for any modification, alteration, or addition to Licensee's Improvements or change of use of the Premises by submittal of a proposal to Licensors, prepared by Licensee in accordance with the requirements set forth in the HPMP. The HPMP process may take a minimum of ninety (90) days, possibly more, and shall conclude upon completion of Licensors consultation with the Idaho State Historic Preservation Office (SHPO). The scope of Licensee's proposal may require additional cultural resources investigations within the Premises which may increase the time necessary for project approval.

d. If in the course of carrying out allowed activities (section 7b, above), or activities proposed and approved hereunder pursuant to the HPMP (section 7c, above), should Licensee observe cultural materials (i.e.: stone tools, pottery, human skeletal remains, buried archaeological features of any type (fire pits, hearths, anthropogenic soils, ash or soil stains), or other prehistoric or historic artifacts), Licensee shall immediately cease all activity in the area of the discovery and shall notify Licensors Cultural Resource Manager at (208) 388-2200. Licensee and Licensee's Agents may not resume work in the area of any such discovery until Licensors Cultural Resource Manager grants clearance to proceed, in writing.

6. Power Line Installation.

a. All power lines to the Premises and Licensee's Improvements shall be installed below ground from the point any power line begins to run parallel to the shoreline of the Project Waters and continuing to Licensee's Improvements. A minimum of twelve inches (12") of separation shall be maintained between Idaho Power installed conduits/cables and any other buried pipes, conduits or cables. Sized, secondary containment must be provided at Licensee's pump station around the pad mounted electric transformer location. Idaho Power Underground Distributions standards shall be adhered to for construction and maintenance.

b. To protect waterfowl and other avian species, all above ground distribution power lines to the Premises and Licensee's Improvements shall incorporate any necessary standard avian protection measures, which shall include, but may not be limited to, avian deflectors.

7. Agency Review and Conditions. Pursuant to FERC License requirements, Licensors has submitted Licensee's proposed use and plans for the Premises and Licensee's

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Improvements to federal, state, and local agencies (collectively, "Agencies") for review and approval. Licensee agrees to comply with any conditions set forth by the Agencies, and acknowledges that any such conditions may be in addition to the terms and conditions set forth herein.

8. Seasonal Access Limitations. Licensee acknowledges that the Property is used by the public for seasonal recreational hunting purposes and Licensee hereby agrees to limit Licensee's and Licensee's Agents access to and from the Premises to the hours of 6:00 a.m. through 10:00 a.m. during the months of September 1st through December 31st, with the exception of necessary access to address an emergency situation.



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 25, 2019

J R SIMPLOT CO
C/O VIC CONRAD
PO BOX 27
BOISE ID 83707-0027

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 298, AGREEMENT 298**

Dear Renter:

Please find enclosed a receipt in the amount of **\$6,528.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 3,264.0 acre-feet of water for irrigation of 816.0 acres during 2019. 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 are the owner of the right.

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

Sincerely,

Water Supply Bank

Enclosures: Receipt No. C106419
Rental Agreement (copy)

c: Sascha Marston – Fiscal
Nick Miller – IDWR Western Regional Office
Rob Whitney – Water District 02
Jes Erling - IDWR



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

MAR 20 2019

DEPARTMENT OF
WATER RESOURCES

March 18, 2019

Mary Condon
State of Idaho Water Resource Board
Water Supply Bank
Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

Re: Water Supply Bank Rental Agreement No. 298.

Dear Mary:

Enclosed is the Partially Executed original rental agreement together with a check in the amount of \$6,528.00 to cover the Water Supply Bank rent during the 2019 irrigation season. Please arrange for the Agreement to be signed by the Idaho Water Resource Board and the IDWR and return the fully executed original 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 8, 2019

J R SIMPLOT CO
C/O VIC CONRAD
PO BOX 27
BOISE ID 83707-0027

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 2-10471, AGREEMENT 298**

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

Dear Applicant:

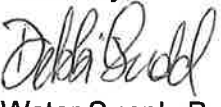
The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have enclosed a Water Supply Bank Rental Agreement for your review and signature.** Upon signature and return of the original agreement, together with the rental fee described below, 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 **\$65,280.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 3,264.0 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 \$6,528.00.** 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 \$6,528.00 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,


for Water Supply Bank

Enclosure

c: IDWR Front Desk

MEMORANDUM FOR AGREEMENT # 298

To: Water Right(s) 2-10471

From: Mary Condon

Date: January 17, 2019 (February 14, 2019)

Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: Application to rent from Simplot for their own right received on October 10, 2018, with a November 1, 2018 processing priority. The application is the same as their rental in 2017-2018, and previously in 2016 with less acres. The application requested 2 years, however their right is only leased into the bank for another 1 year.

AUTHORITY TO FILE: Application for Simplot is signed by James Alderman, the Sr VP and Secretary for the company. The land on which the rental will be for is owned by Simplot, and the POD is for their own right 2-10520 & 2-10521 (created through transfer 80453), through an agreement with Idaho Power to use their land. Rental POU is commonly known as Battle Creek Ranch. No concerns of authority to file.

WATER RIGHT VALIDITY: Right 2-10471 was decreed in 2008. Through a transfer, it was moved to the current legal description in 2011, and the same year placed in the bank indefinitely, where it has been since. This is the last year of the lease of this right. No concerns of validity.

INJURY TO OTHER WATER RIGHTS: Not within the ESPA. Injury to other water rights through this rental alone is not apparent.

ENLARGEMENT OF USE: The rental POU is over several different water rights, all from different sources. The reason for rental is to use Snake River water when Jacks Creek is low, which has been occurring more frequently in recent years. There are five main groups or sets of water rights which are decreed or licensed to provide irrigation on the grounds under the POU for this rental:

The first are water rights in the PPU for 51-6, 51-7, 51-8 & 51-4096, for irrigation from the Bruneau River and in the name of South Side Bruneau Canal. The application and previous rental reviews do not indicate there are any shares held by Simplot and used on these lands, and therefore are not considered as overlapping.

The second are the water rights to be substituted by this rental in the PPU for 51-2015, 51-2111, 51-2112, 51-2131, 51-2039, 51-2124, 51-2254 from Jacks Creek. These rights are overlapped by waste water right 51-10377 by 684.3 acres, and the fourth set from groundwater rights 51-2113C, et al, described below by 339.7 acres. The purpose of this rental is to use Snake River water when Jack's Creek is not available, which has been increasing.

The third is a single water right from wastewater, 51-10377 which overlaps the second set by its acre limit of 684.3 acres. 51-10377 does overlap the fourth set below by its acre limit of 684.3 acres as well.

The fourth set is groundwater in the PPU for 51-2113C, 51-2117 and 51-2164 covering the second and third set by the acres equivalent to the wastewater acre limit of 684.3 acres, with an additional 339.7 acres without any overlap.

The fifth is another Jacks Creek irrigation right, 51-7279 for 98 acres, which is outside of sets two, three and four and in the name of M L Investment, however the land is in the name of Simplot. A 66 acres of this will be covered/substituted by the rental, while the other 32 acres is covered/supplemented by Snake River right 2-10521, from the rental POD.

Of the rental POU, out of 816 acres proposed, 67.5 acres are not covered by any other irrigation rights, of which 15 acres are not covered by an existing irrigation right at all and 52.5 acres of the rental POU is on the first set of water rights described above, however South Side canal shares are not considered to be applied to these lands. 549 acres of the rental are overlapped by set 2, 3 and 4. And 52 acres overlap set 1 (not considered) and set 2. Another 64 acres overlaps the fifth set.

Consideration of combined limits for the rental POU with these sets of water rights, found conflicting combined limits on sets two, three and four, when combined as decreed. Current policy within the Department is to consider the lowest decreed amount on each rate, volume (if stated) and acres. Therefore when set two, three and four are combined they are limited to 13.69 cfs, 1,024.0 acres and 4,196.0 af, equal to 0.0134 cfs/acre and 4.1 af/acre.

The combined limit of the rental POD has a reduced rate of 1.35 cfs, 90.8 acres, and 454 af, equal to 0.0149 cfs/acre and 5.0 af/acre, as transferred in, and higher than the area standard of 4.0 af/acre.

Requested water right 2-10471 for 816 acres has a rate of 0.02 cfs/acre and volume of 4.0 af/acre. The rate will be limited down to the rental POU combined limit of 0.0134 cfs/acre. WMIS data for 2018 and 2017 shows this will not negatively impact their historical use of previous identical rental when combined with rights 2-10520 & 2-10521 out of the rental POD. Rights 2-10520 and 2-10521 when combined cover 90.8 acres, and when combined with the rental cover 906.8 acres. Their rate was equal to 0.0127 cfs/acre in 2018 and 0.0121 cfs/acre in 2017. Correspondence with Vic Conrad for J R Simplot confirmed this will be sufficient.

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 STAFF OR WATERMASTER COMMENTS: The location for the rental PD is subject to Water District # 02

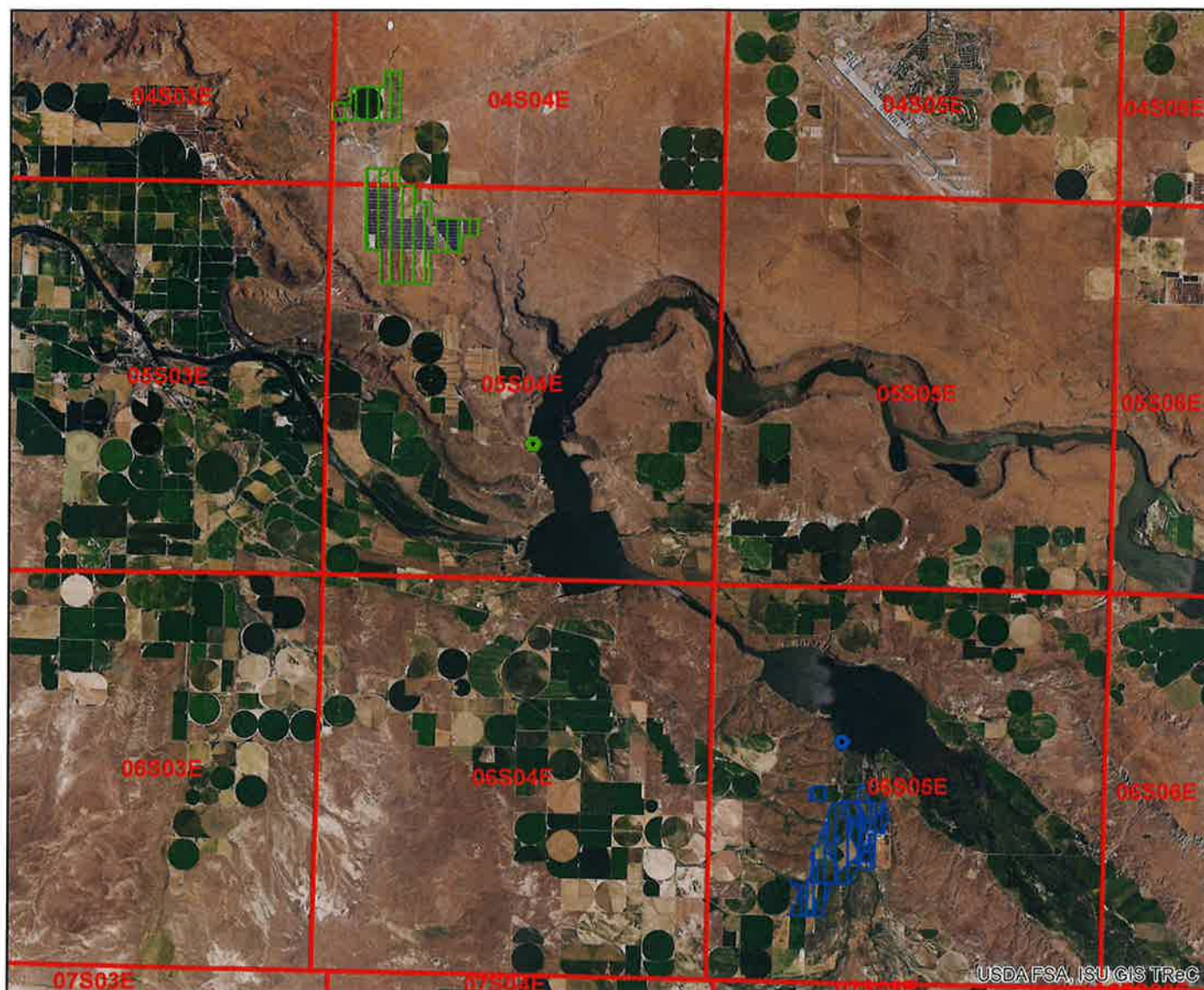
Rental POU SOU – 3/1 – 11/15, HG -4, CU-3.

Leased WR SOU – 04/01 – 10/31, with shoulder season of 3/1 – 11/15, HG – 4.

Idaho Water Resource Board

Move Map for 2-10471

Simplot Rental Agreement 298



-  Water Supply Bank Rental POD
-  Water Supply Bank Rental POU
-  Active Water Supply Bank Lease POD
-  Active Water Supply Bank Lease POU
-  Township/Range



0 2.5 5 Miles

Condon, Mary

From: Conrad, Vic <Vic.Conrad@simplot.com>
Sent: Thursday, February 14, 2019 4:20 PM
To: Condon, Mary
Subject: RE: [EXTERNAL] Simplot Rental for 816 acres

Mary,
I think this will work fine. Thank you.

From: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Sent: Thursday, February 14, 2019 12:09 PM
To: Conrad, Vic <Vic.Conrad@simplot.com>
Subject: [EXTERNAL] Simplot Rental for 816 acres

[Warning: External Email]

Good morning, Vic,

I am continuing my review on the requested rental of 2-10471 for 816 acres, and after considering the combined limits of the water rights on the rental place of use (51-2113C, et al with 51-2134 et, al and 51-10377), I am proposing to reduce the rate equal to 0.0134cfs/acre, or 10.909 cfs for 816 acres, with a combined rate of 12.259 cfs with wr's 2-10520 & 2-10521. I did take a look at the WMIS records for the rental POD, and this would not impact the historical/expected withdrawal rate. The max flow for 2018 was 11.48 cfs, and for 2017 was 10.93 cfs.

However, if you feel a higher rate per acre is needed, please kindly respond within 7 days with your request and justification.

Best,
Mary

Mary Condon
Water Supply Bank Specialist
Planning & Projects Bureau
Idaho Department of Water Resources
Main: (208) 287-4936
Fax: (208) 287-6700

	Basin	Sequence	Suffix	Process	Basis	Status	Priority Date	Source List	Diversion Rate	Total Acres	Acre Limit	Volume	cfs/ac	af/ac	Water District	Water Use List
Set 2 overlap 51-2113C and 51-6	51	10377		Water Right	Decreed	Active	4/1/1954	WASTE WATER	8.060	684.3		2,737.2	0.0118		4.0 TBD - To Be Determined	IRRIGATION
	51	2124		Water Right	Decreed	Active	11/28/1951	JACKS CREEK	3.800	762.6	192.0	768.0	0.0198		4.0 TBD - To Be Determined	IRRIGATION
	51	2131		Water Right	Decreed	Active	12/13/1954	JACKS CREEK	0.530	762.6	24.6	98.4	0.0215		4.0 TBD - To Be Determined	IRRIGATION
	51	2015		Water Right	Decreed	Active	2/28/1910	JACKS CREEK	0.900	762.6	45.0	180.0	0.0200		4.0 TBD - To Be Determined	IRRIGATION
	51	2039		Water Right	Decreed	Active	9/8/1914	JACKS CREEK	1.600	762.6	80.0	320.0	0.0200		4.0 TBD - To Be Determined	IRRIGATION
	51	2111		Water Right	Decreed	Active	1/19/1950	JACKS CREEK	2.520	762.6	126.0	504.0	0.0200		4.0 TBD - To Be Determined	IRRIGATION
	51	2112		Water Right	Decreed	Active	11/8/1949	JACKS CREEK	3.500	762.6	175.0	700.0	0.0200		4.0 TBD - To Be Determined	IRRIGATION
	51	2254		Water Right	Decreed	Active	5/6/1911	JACKS CREEK	2.400	762.6	120.0	480.0	0.0200		4.0 TBD - To Be Determined	IRRIGATION
	additive value, no combined limits without below 3 listed, less wastewater								15.250	762.6						
	Set 1 overlap 51-10377 et al	51	2113 C		Water Right	Decreed	Active	2/27/1950	GROUND WATER	7.890	1,024.0	626.0	2,504.0	0.0126		4.0 TBD - To Be Determined
51		2117		Water Right	Decreed	Active	12/6/1950	GROUND WATER	4.480	1,024.0	298.0	1,192.0	0.0150		4.0 TBD - To Be Determined	IRRIGATION
51		2164		Water Right	Decreed	Active	7/22/1961	GROUND WATER	2.000	1,024.0	100.0	400.0	0.0200		4.0 TBD - To Be Determined	IRRIGATION
these 3 water right combined limits								13.930	1,024.0		4,196.0		4.1			
top decree limits, 51-2015 et al with these 3								15.250	1,102.3							
bottom decree limits, 51-2113 et al with 51-2015 et al								20.480	1,024.0							
51-10377 decree, when combined with all in both sets AND 51-2181 (which was disallowed)								13.690	1,102.3							
overlap 51-6, 25-10521	51	7279		Water Right	Decreed	Active	8/14/1983	JACKS CREEK	1.960	98.0		392.0	0.0200		4.0 TBD - To Be Determined	IRRIGATION
Rental POD																
	2	10520		Water Right	Decreed	Active	10/24/1972	SNAKE RIVER	0.710	35.6		178.0	0.0199		5.0 02 - Snake River from Milner Dam to M	IRRIGATION
	2	10521		Water Right	Decreed	Active	10/24/1972	SNAKE RIVER	1.100	55.2		276.0	0.0199		5.0 02 - Snake River from Milner Dam to M	IRRIGATION
combined limits								1.350	90.8		454.0	0.0149	5.0			
Rented Water Right																
	2	10471		Water Right	Decreed	Active	2/25/1963	SNAKE RIVER	23.760	1,428.0	1,188.0	4,752.0	0.0200		4.0 02 - Snake River from Milner Dam to M	IRRIGATION
requested								16.320	816.0	816.0	3,264.0	0.0200	4.0			
limited to								10.909	816.0	816.0	3,264.0	0.0134	4.0			
rental pod								1.350		90.8	454.0	0.0149	5.0			
combined limits of rental with POD								12.259	816.0	906.8	3,627.2	0.0135	4.0			
WMIS 1001951								2018	11.480		906.8	2,588.8	0.0127	2.9		
WMIS 1001951								2017	10.930		906.8	2,821.0	0.0121	3.1		

		cfs	vol	acres	cfs/ac	af/ac
leased	thru 2019	23.76	4752	1188		
exp	111 2017-2018	16.32	3264	816		
	190 2017-2018	0.3	60	15	0.02	4
		7.14	1428	357		
Rental	148 2018-2020	3.25	649.2	162.3	0.02	4
	236 2018-2019	0.66	132	33	0.02	4
		19.85	3970.8	992.7		
app 1194	2019	16.32	3264	816	0.02	4
	remaining	3.53	706.8	176.7	0.02	4

Condon, Mary

From: Grimm, Angie
Sent: Thursday, January 31, 2019 9:59 AM
To: Condon, Mary
Subject: RE: Water Right combined limits for Simplot Basin 51

Mary,

Good morning! I had a chance to talk with Shelley about this a bit. He confirmed my hunch that we should administer or interpret the combined limit condition(s) to be the lowest decreed quantity. If the water right owner wishes to address the conditions decreed, he would need to ask the SRBA court to re-open the decrees. If that occurred and the SRBA court requests IDWR review the rights for recommendation, IDWR would then dig into the matter further and make appropriate recommendations. Based on this guidance, I think a meeting is not necessary. Hope this guidance is helpful. Please let me know if you have any questions.

Regards,
Angie

Angela M. Grimm, P.G.
Water Rights Section Manager
IDWR - State Office
322 E Front St Ste 648
Boise, ID 83702-7371
(208) 287-4951 phone
(208) 287-6700 fax

From: Condon, Mary
Sent: Monday, January 28, 2019 1:57 PM
To: Grimm, Angie <Angie.Grimm@idwr.idaho.gov>
Subject: FW: Water Right combined limits for Simplot Basin 51

Angie,

The next available time open on the calendar's for Shelley, Garrick and the two of us would be Friday afternoon. We also have the WR Q&A on Wednesday morning and WSB meeting Wednesday afternoon, but both Shelley and Garrick would be unavailable. I will be out next week on Monday and Tuesday and perhaps Thursday and Friday also.

If you see another opportunity, or would prefer I continue to look toward later in February for us to discuss this, please let me know.

Thank you,
Mary

From: Condon, Mary
Sent: Wednesday, January 16, 2019 5:32 PM
To: Grimm, Angie <Angie.Grimm@idwr.idaho.gov>
Cc: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: Water Right combined limits for Simplot Basin 51

Hi Angie and Corey,

I'm reviewing a POU for a rental, and I'm trying to understand the combined limits for the below water. The problem is the overall combined limits for all ten rights are different between the three different sets as I'll summarize below.

The first set of three rights are the groundwater 51-2113(C) et al, decreed in 2002, second set of eight rights are the Jacks Creek 51-2015 et al, decreed in 2000, and wastewater 51-10377 decreed in 2000.

Set 1. The decrees for 51-2113C, -2117, & -2164 when combined with Set 2: 51-2015, -2039, -2111, -2112, -2124, -2131, -2254 & 51-10377 are limited to 15.25 cfs and 1102.3 acres

Set 2. The decrees for 51-2015, -2039, -2111, -2112, -2124, -2131, -2254 & 51-10377 when combined with Set 1: 51-2113C, -2117, & -2164 are limited to 20.48 cfs and 1024.0 acres.

Set 3. The decree for 51-10377 when combined when combined with Set 1: 51-2113C, -2117, -2164 and Set 2: 51-2015, -2039, -2111, -2112, -2124, -2131, -2254 & 51-2181 are limited to 13.69 cfs and 1102.3 acres.

Set 1 when just the three are combined are limited to 13.93 cfs and 1024.0 acres – the same volume limited in Set 2 when combined with Set 1.

Set 2 doesn't have a combined for the 8, but the additive rate without wastewater right 51-10377 is 15.25 – the same rate limit in Set 1 when combined with Set 2.

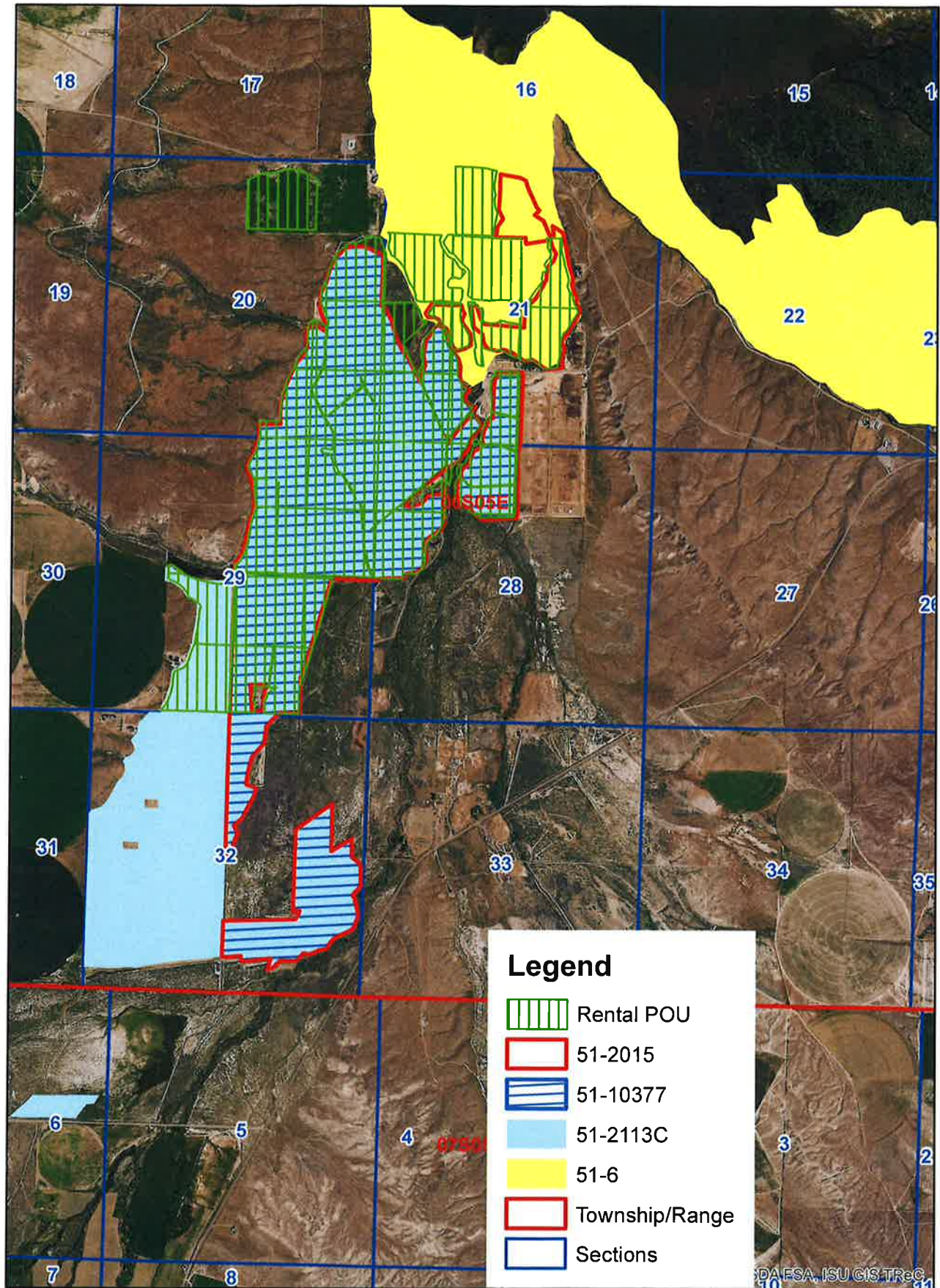
Set 3 it includes a water right which was later disallowed, 51-2181.

I've attached my spreadsheet, but I'm hoping someone can help me figure out what exactly is expected from these overlapping rights, mostly on the acre side since the rental is Snake River water on the POU. And of course, proof reports show all three different decree values as the combined limits.

Corey, I've included you in this as Shelley said you came into a similar situation recently about conflicting decrees on overlapping / combined water rights.

Thank you,
Mary

Mary Condon
Water Supply Bank Specialist
Planning & Projects Bureau
Idaho Department of Water Resources
Main: (208) 287-4936
Fax: (208) 287-6700





J.R. Simplot Company
Simplot Headquarters
1099 W. Front Street
Boise, Idaho 83702
P.O. Box 27
Boise, Idaho 83707

RECEIVED

OCT 10 2018

**DEPARTMENT OF
WATER RESOURCES**

October 9, 2018

Clay Webster
State of Idaho
Department of Water Resources
322 East Front Street
Boise, Idaho 83720

Re: Water Supply Bank Rental Agreement No. 111.

Dear Clay:

The above referenced rental agreement expires on December 31, 2018. Simplot requests an extension of the rental agreement for an additional 2 years. In the event such a request cannot be granted without a rental application, I am enclosing, for your consideration, a completed application to rent the same quantity of water to be withdrawn from the same point of diversion approved under the above rental agreement.

Please contact me if I can provide any additional information to assist with considering this request.

Sincerely,

Vic Conrad
Land, Water & Asset Recovery

Enclosure