

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 190

This is to certify that:

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

RECEIVED

OCT 11 2017

DEPARTMENT OF
WATER RESOURCES

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

Summary of Water Rights or Portions Rented from the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
2-10471	2/25/1963	SNAKE RIVER	0.300	60.00	15.00	0.020	4.00
2-10472	2/25/1963	SNAKE RIVER	0.300	60.00	15.00	0.020	4.00
Combined Rental Totals			0.600	120.00	30.00	0.020	4.00

Term of Rental: This rental shall take effect when all parties have signed it and shall continue in effect until December 31, 2018

Annual Rental Fee:

2017: \$2,040.00
2018: \$2,400.00

The full fee for the rental of the above-described right(s) is \$2,040.00 per year for 2017 and \$2,400.00 for 2018. The rental fee includes an administrative fee of \$204.00 per year for years 2017 and \$240.00 for 2018.

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.

Detailed water right conditions are attached.

SUPPORT DATA

IN FILE # 2-10471

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK RENTAL AGREEMENT

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

October 6, 2017

Date

James B. Alderman

Printed Name

Senior Vice President and Assistant
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 10/11/2017

Rental approved by IDWR 

Date 10-11-2017

WATER SUPPLY BANK RENTAL AGREEMENT No. 190

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

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

Beneficial Use
IRRIGATION

Diversion Rate
0.60 CFS

Volume
120.00 AF

BENEFICIAL USE & SEASON OF USE

Water Right No.	From	To	Diversion Rate
2-10471	4/1	10/31	0.300 CFS
2-10472	4/1	10/31	0.300 CFS

RENTERS PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	02E	5											3.0 L7		6.0	2.0	1.0 L8		12.0
04S	02E	6		5.0 L12	5.0 L15										5.0 L16				15.0
04S	02E	8		3.0 L1															3.0

Total Acres: 30.0

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 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.
4. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
5. 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.
6. 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.
7. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
8. 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.

9. 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.
10. Prior to diversion and use of water under this approval, the right holder shall obtain Bureau of Land Management authorization necessary to access points of diversion or places of use or to convey water across federal land.

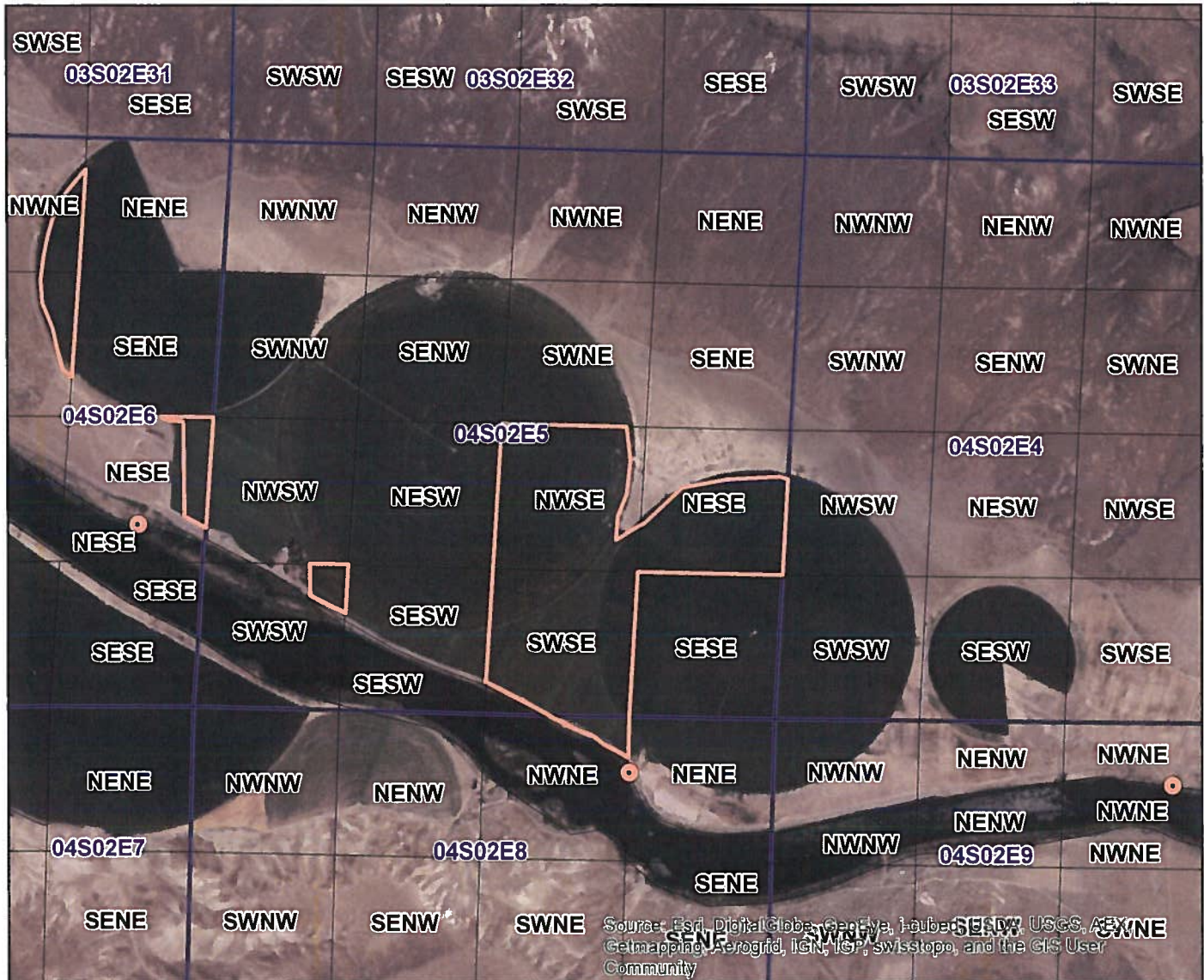


Idaho Water Resource Board

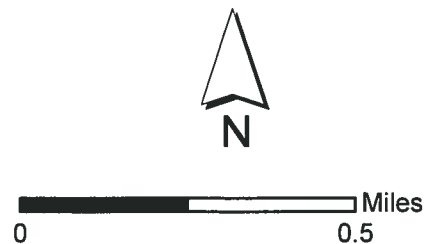
Water Supply Bank Rental Agreement

Effective until December 31, 2018

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



-  Authorized Rental Point of Diversion
-  Authorized Rental Place of Use
-  Quarter Quarters
-  PLS Sections



STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANK

RECEIVED

JUN 06 2017

DEPARTMENT OF
WATER RESOURCES

Applicant Name: J. R. Simplot Company

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

Yes ☐ No ☐

If yes, specify companion water rights in Section 4

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

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

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

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

MINIMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

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

Department Use Only – Proposed Water Right(s)

2-10471 + 2-10472

840

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant J. R. Simplot Company

Mailing Address	<u>P. O. Box 27</u>	<u>Boise</u>	ID	<u>83707</u>
	Street	City	State	Zip Code
Email Address	<u>vic.conrad@simplot.com</u>		Phone Number	<u>208-336-2110</u>

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

Representative _____	Professional Title _____
Organization _____	Relationship to Applicant _____
Mailing Address _____	
Email Address _____	Phone Number _____

2. MAP

Create a map of the proposed point(s) of diversion, place(s) of use and water diversion, delivery and distribution systems. Make sure the rental place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to irrigate. Attach the map to this application and label it **Attachment 2**.

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

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

Water to irrigate 19 acres will be rented from water rights 2-10471 and 2-10472.

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

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Desired Acres (if applicable)
0.38 CFS	76 AF	0.38 CFS	66.5 AF	19 AC

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

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

Desired Start Date (month/day/year)	Latest Possible Start Date (month/day/year)	*Mark Desired Rental Duration (Calendar Years)					**Applicant's preference if rental application cannot be processed prior to the latest possible start?	
Mar/15/2017	Mar/15/2017	☐ 1	☒ 2	☐ 3	☐ 4	☐ 5	☒ Process application as soon as possible	☐ Return application to applicant

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

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

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

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

Water is diverted from the Snake River using the Applicant's points of diversion; then water is applied to the place of use using applicant's sprinkler systems.

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

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

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

- F. Has documented consent from all relevant water delivery entities been obtained? Yes ☐ N/A ☒
If yes, include documented consent as Attachment 3F.

- G. Do any POD(s) identified in Question 3E divert from a water source that may require water modeling? Yes ☐ No ☒
Refer to the Water Modeling Requirements Information Sheet to determine if a rental POD may require water modeling.

- H. Has water modeling been provided with your rental request? Yes ☐ N/A ☒
If yes, label modeling Attachment 3 H.
Rental applications that require modeling will be returned if modeling is not provided.

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

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

- J. For irrigation uses, do you propose to divert water at a rate greater than 0.02 cfs/acre? N/A ☐ Yes ☐ No ☒
If yes, justify the rate of flow and attach any supporting documents as Attachment 3J. Justification may include information on soil composition, conveyance losses, crop type, irrigation systems, public access areas, etc. A rate of 0.03 cfs/acre is permissible for irrigation of 5 acres or less.

- K. Do you own the land at the proposed rental place of use (POU)? Yes ☐ No ☒
If no, attach documentation from the POU owner/operator confirming your authorization to use the POU and label it Attachment 3K.

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

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

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

4. RENTAL REQUESTS FOR SPECIFIC WATER RIGHTS

A. Are you requesting to rent specific water rights?

Yes ☒ No ☐

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

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

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

Water Right Elements Leased to Water Supply Bank					Leased totals, minus water right elements involved in active rental agreements, equals water right elements available for rent	Water Supply Bank Rental Request		
Water Right Number (leave blank if sub-total of combined limits)	Nature of Use	Diversion Rate (CFS)	Volume (AF)	Acres (AC)		Diversion Rate (CFS)	Volume (AF)	Acres (AC)
2-10471	Irrigation	23.76	4,572	1,428		0.08	16	4
2-10472	Irrigation	0.3	15	60		0.3	60	15
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank					TOTAL	0.38	76	19
						CFS	AF	AC

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

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

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

Yes ☐ No ☒

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

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

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

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

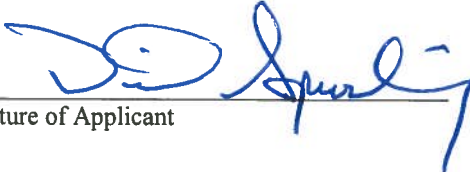
- C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes ☐ No ☐
If yes, describe the date and location of the NOV.

This application is submitted in response to the IDWR's Notice of Review and to Correct Place of Use for Water Right(s) No. 2-2353, 2-2437 and 2-2070 dated April 7, 2017 (IDWR Case No. E2017-1136).

- 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

David Spurling, Sr. V.P. and Secretary
Printed Name of Applicant

2 June 2017
Date

Signature of Representative

Printed Name of Representative

Date

Mail to:

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

STATE OF IDAHO
WATER RESOURCE BOARD

Water Modeling Requirement Information Sheet

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

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

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

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

Regulated water sources may areas include:

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

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

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

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

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

Modeling situations may include:

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

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

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

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

Application to Rent Water From Water Supply Bank



May 30, 2017

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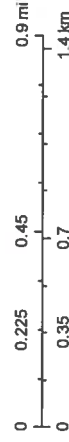


Image courtesy of USGS Earthstar Geographics SIO © 2017
Microsoft Corporation © 2010 NAVTEC © AND

Points Of Diversion outlined in blue; yellow numbers indicate the proposed rental place of use
Image courtesy of USGS, Earthstar Geographics SIO, © 2017 Microsoft Corporation, © 2017 HERE, © AND | Copyright DigitalGlobe Inc. | JRS GIS | Simplot GIS |



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 12, 2017

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

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 2-10471 and 2-10472**

Dear Renter:

Please find enclosed a receipt in the amount of **\$444.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 120.0 acre-feet of water for irrigation of 30.0 acres during 2017 and 2018. 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 rights.

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

Sincerely,

 Water Supply Bank

Enclosures: Receipt No. C104214
Rental Agreement (copy)

c: Sascha Marston – Fiscal
Angie Grimm – IDWR Western Regional Office
Rob Whitney – State Water District No. 02



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

1099 West Front Street
Boise, Idaho 83702

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

October 9, 2017

Debbi Field
State of Idaho
Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098

RECEIVED
OCT 11 2017
DEPARTMENT OF
WATER RESOURCES

Re: Water Supply Bank Rental Agreement ("Agreement"); 2-10471 and 2-10472.

Dear Debbi:

Enclosed is the partially executed original of the Agreement for the rental of all of water right 2-10472 and a portion of 2-10741. Also enclosed is a check in the amount of \$444.00 to cover the rental fee for 2017 and 2018. Please arrange for the Agreement to be signed by Mr. Patton on behalf of the Idaho Water Resource Board and by IDWR, then return the fully executed original Agreement to me.

Sincerely,

Vic Conrad
Land, Water & Asset Recovery

Enclosure



Memorandum

To: Water Rights 2-10471, 2-10472, 2-2070, 2-2353 and 2-2437

From: Remington Buyer

Date: September 29, 2017

Re: Water Supply Bank Rental Application 840

Purpose/Narrative: On June 6, 2017, the Department received an application from the Simplot Corporation seeking to rent water rights 2-10471 and 2-10472 from the Water Supply Bank for 2017 and 2018, to administratively authorize irrigation of lands owned by Simplot and the Bureau of Land Management (BLM), upon which Simplot is currently conducting agricultural operations.

There are three water rights appurtenant to the acres owned by Simplot and BLM: water rights 2-2070, 2-2353 and 2-2437. All three water rights authorize diversions of Snake River water from a point of diversion (POD) in the NWNENE (Lot 1) tract of Section 08, Township 04S, Range 02E, upon land owned by Simplot. Water rights 2-2070 and 2-2437 also authorize diversions of Snake River water from an additional two PODs situated on land held by BLM. A copy of a March 15th BLM letter provided with the rental application indicates that Simplot has an active application to continue leasing BLM's Big Foot Bar.

The rental application was submitted to IDWR in conjunction with an application for transfer of water right 2-2353 (Transfer No. 81822) both of which have been submitted in response to an April 2017 letter issued by IDWR's Compliance Bureau (Case No. E2017-1136) in which Simplot was informed that a review of 2016 near-infrared satellite imagery revealed they were irrigating outside the established places of use (POU) for their three water rights.

This memo summarizes observed irrigation practices during 2017 and Simplot's request to rent water rights 2-10471 and 2-10472 to address irrigation in excess of the acres authorized under their three water rights.

Authority to File: Rental application is completed and signed by David Spurling, Senior VP, Secretary and General Counsel for Simplot. No concerns about authority to file. Two of the three points of diversion and some acres to be irrigated under this rental are located on BLM land. It was not clear from documentation provided whether Simplot possessed an active lease authorization from BLM. Correspondence with BLM staff has confirmed that Simplot's lease renewal application (BLM: IDI 36485) is active and pending and BLM staff appear to have no objections to Simplot continuing to irrigate BLM lands.

Water Right Validity/Forfeiture Evaluation: There are no concerns about the validity of the three water rights appurtenant to the place of use where the rental is intended, nor are there concerns about the water rights being sought for rental.

Injury Evaluation: The water rights being rented authorize diversions from the Snake River upstream of the rental place of use. Injury is not apparent through the movement of these water rights downstream to the proposed rental location.

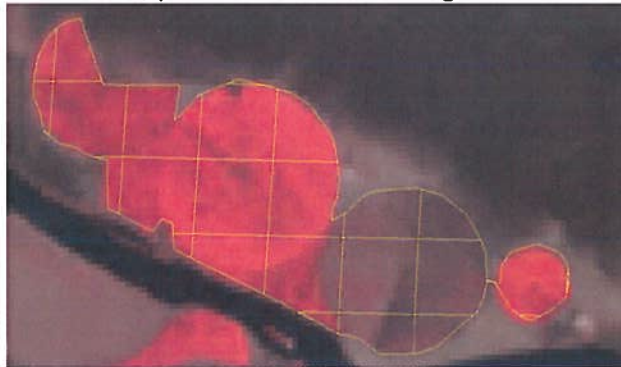
Enlargement of Use: This rental is intended to authorize irrigation in excess of any irrigation authorized under water rights 2-2070, 2-2353 and 2-2437. A review of 2017 LandSat near infrared satellite imagery indicates no fewer than 513 acres have been irrigated within the rental place of use during 2017:



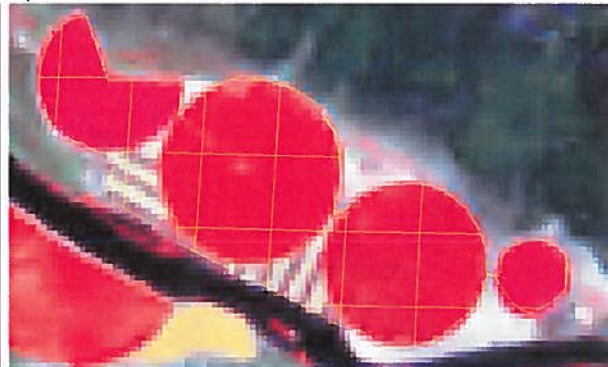
Rental POU, yellow border area = irrigated area



April 2017



June 2017



July 2017



August 2017

A GIS analysis of the areas irrigated in the images above reveals no fewer than 513 acres have been irrigated during 2017. The 513 acre amount was determined by evaluating acres observed irrigated in 2017, from both the near IR Landsat imagery, as well as the real color imagery. The irrigated acres reflected the most conservative values calculated as irrigated per quarter-quarter (see tables below)

	Sec	NE				NW				SW				SE				Total	Total	Combo WR Max
		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
Observed 2017 LandSat NearIR	4																	79.2		
	5			23		0.6		35	39	40	37	36	28			6.2		339.3		
	6	16	5.2	5	36									24	37	39	40	67.6	517.5	
	8	18	3											5.4				21		
	9					0.4	10											10.4		
Observed Aerial Imagery	4											17	36	26				79		
	5			25		1.1	0.4	36	39	40	39	4.5	25.4	26	37	39.4	40	352.8		
	6	17	6.4	6.5	37									7.9				74.8	537.9	
	8	17	3.3															20.3		
	9					0	11											11		
*2017 Irrigation	4											15	36	26		0		77		
	5			23		0	0	35	39	40	37	3	22	24	37	39	40	339		
	6	16	5	5	36									5				67	513	
	8	17	3															20		
	9					0	10											10		

Table 1. Calculation of the observed number of acres irrigated in 2017, per quarter-quarter.

By comparing the number of acres observed irrigated (Table 1, above) against the total maximum acres irrigable per QQ under water rights 2-2070, 2-2353 and 2-2437 (Table 2, below), it is observed that at least 30 acres not authorized to be irrigated under a water right were irrigated by Simplot during 2017:

	Sec	NE				NW				SW				SE				Total	Total	Combo WR Max
		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
Possible / Authorized	4											33	40	36		20		129		
	5			40		0	0	40	40	40	40		39	18	35	38	40	370		
	6	32	0		40													72	643	633 (73 + 560)
	8	32	0															32		
	9					16	24											40		
*2017 Irrigation	4											15	36	26		0		77		
	5			23		0	0	35	39	40	37	3	22	24	37	39	40	339		
	6	16	5	5	36									5				67	513	
	8	17	3															20		
	9					0	10											10		
Unauthorized Irrigation	4											0	0	0				0		
	5			0		0	0	0	0	0	0	3	0	6	2	1	0	12		
	6	0	5	5	0									5				15	30	
	8	0	3															3		
	9					0	0											0		

Table 2. Calculation of the total possible/authorized irrigable acres in 2017, per quarter-quarter.

The quarter-quarters above (wherein irrigation occurred in excess of authorizations under appurtenant water rights) are visible below, along with color coding to denote the ownership of the real property where irrigation occurred (purple are acres owned by Simplot and red are acres owned by BLM):



2017 excess irrigated areas



Ownership of land where excess irrigation occurred

To avoid an enlargement in water use, this rental request should cover all 30 acres irrigated in excess of authorizations under water rights 2-2070, 2-2353 and 2-2437.

Water rights 2-2070, 2-2353 and 2-2437 authorize a diversion rate of 0.02 cfs/acre, as do the water rights being rented (2-10471 and 2-10472). Maintaining a 0.02 cfs/acre diversion rate on the rental will avoid enlargement in water use.

Local Public Interest: This rental does not appear to be contrary to any local public interest concerns.

Beneficial Use/Conservation of Water Resources: Water rights 2-2070, 2-2353 and 2-2437 authorize irrigation of a maximum 633 acres at a diversion rate of 0.02 cfs/acre. The water rights to be rented, 2-10471 and 2-10472, also authorize irrigation at the same 0.02 cfs/acre. No concerns about diversion rates and beneficial use or conservation of water resources.

Department/Watermaster Comments: In light of rental having been submitted in response to an enforcement action, comments were requested from Cherie Palmer, IDWR's Enforcement Coordinator, along with Water District 02 Watermaster Rob Whitney, and Patrick Kelley, Senior Water Resource Agent at IDWR's Western Region. No concerns were raised by IDWR staff.

Water Supply Bank Evaluation: This rental can be approved.

Buyer, Remington

From: Palmer, Cherie
Sent: Monday, September 25, 2017 2:00 PM
To: Buyer, Remington
Subject: RE: WSB Rental for Simplot

Remington,
I have no feedback. Thanks for the email.
Cherie

From: Buyer, Remington
Sent: Thursday, September 21, 2017 4:45 PM
To: Kelly, Patrick <Patrick.Kelly@idwr.idaho.gov>; Palmer, Cherie <Cherie.Palmer@idwr.idaho.gov>; Whitney, Rob <Rob.Whitney@idwr.idaho.gov>
Cc: Skaggs, Pam <Pam.Skaggs@idwr.idaho.gov>
Subject: WSB Rental for Simplot

All,

Attached is a draft rental agreement, with review memo and map for a Basin 2 rental by Simplot for 2017 and 2018, to address unauthorized water uses associated with Enforcement Case E2017-1136 and Transfer 81822.

Through a review of the currently appurtenant water rights and Simplot's 2017 irrigation practices, I found they to be short 30 acres.

Please advise if you have any comments, questions or concerns,

Remington
287-4918

Buyer, Remington

From: Whitney, Rob
Sent: Monday, September 25, 2017 2:08 PM
To: Buyer, Remington
Subject: RE: WSB Rental for Simplot

No concerns here. Thanks, RW

From: Buyer, Remington
Sent: Thursday, September 21, 2017 4:45 PM
To: Kelly, Patrick <Patrick.Kelly@idwr.idaho.gov>; Palmer, Cherie <Cherie.Palmer@idwr.idaho.gov>; Whitney, Rob <Rob.Whitney@idwr.idaho.gov>
Cc: Skaggs, Pam <Pam.Skaggs@idwr.idaho.gov>
Subject: WSB Rental for Simplot

All,

Attached is a draft rental agreement, with review memo and map for a Basin 2 rental by Simplot for 2017 and 2018, to address unauthorized water uses associated with Enforcement Case E2017-1136 and Transfer 81822.

Through a review of the currently appurtenant water rights and Simplot's 2017 irrigation practices, I found they to be short 30 acres.

Please advise if you have any comments, questions or concerns,

Remington
287-4918

Buyer, Remington

From: Jackson, Jeffery <jkackson@blm.gov>
Sent: Monday, September 11, 2017 3:02 PM
To: Buyer, Remington
Subject: Re: Simplot Big Foot Bar Agricultural Lease

Good Afternoon,

IDI 36485 is active and the renewal is pending.

Hope this helps and sorry for the delay

v/r
Jeff

On Thu, Aug 31, 2017 at 3:07 PM, Buyer, Remington <Remington.Buyer@idwr.idaho.gov> wrote:

Jeff,

The Idaho Department of Water Resources has received a request from the JR Simplot Company to rent water rights in 2017, to authorize irrigation of lands adjacent to the Snake River in what we understand is the Big Foot Bar area (BLM ID No.: IDI-36485, approximately 15 miles northwest from Grandview, Idaho). Some of the areas where an irrigation authorization is being sought are lands owned by Simplot and some of the lands to be irrigated are lands owned by BLM. We have received from Simplot a letter dated Marcy 15, 2017 in which BLM acknowledged an active lease application by Simplot is being considered by BLM, however IDWR cannot authorize a 2017 rental for Simplot to irrigate lands owned by BLM without confirmation that they are in fact authorized to do so.

Could you please help me by confirming whether Simplot is currently, or will soon be, in possession of an active agricultural authorization or lease of BLM land in the Big Foot Bar area? Please feel free to call me if you have further questions.

Thank you sir,

Remington Buyer

Water Supply Bank Coordinator

Idaho Department of Water Resources

322 East Front Street, Boise, ID, 83720

T: (208) 287-4918 | F: (208) 287-6700

--

Jeff Jackson
Supv Realty Specialist
Boise District Office
Bureau of Land Management - Idaho
E: jkjackson@blm.gov
P: 208-384-3309

- "Peace is that brief glorious moment in history when everybody stands around reloading."
- Thomas Jefferson



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 7, 2017

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

RE: Notice of Review and Requirement to Correct Place of Use for Water Right(s) No. 2-2353,
2-2437, 2-2070
Case No. E2017-1136

Dear Water User,

The Idaho Department of Water Resources (IDWR) is reviewing irrigated lands within the Snake River basin by comparing aerial photography against the recorded place of use (POU) from valid water rights. These investigations are in response to inquiries or concerns received by IDWR regarding potential unauthorized irrigation. Irrigation in excess of, or inconsistent with your water right(s) is a violation of Idaho law.

A recent review in your area has identified lands being irrigated outside the authorized (POU) described on your water right(s). The attached map indicates the area(s) identified during the review. IDWR requires that you correct the water right(s) POU by submitting the necessary water right transfer application to IDWR's Western Regional Office within 60 days of the date of this letter. Please notify me directly when the application has been submitted. The Application for Transfer of a Water Right form can be found on our website at the following link:

<https://idwr.idaho.gov/files/water-rights/application-for-transfer-of-a-water-right.pdf>

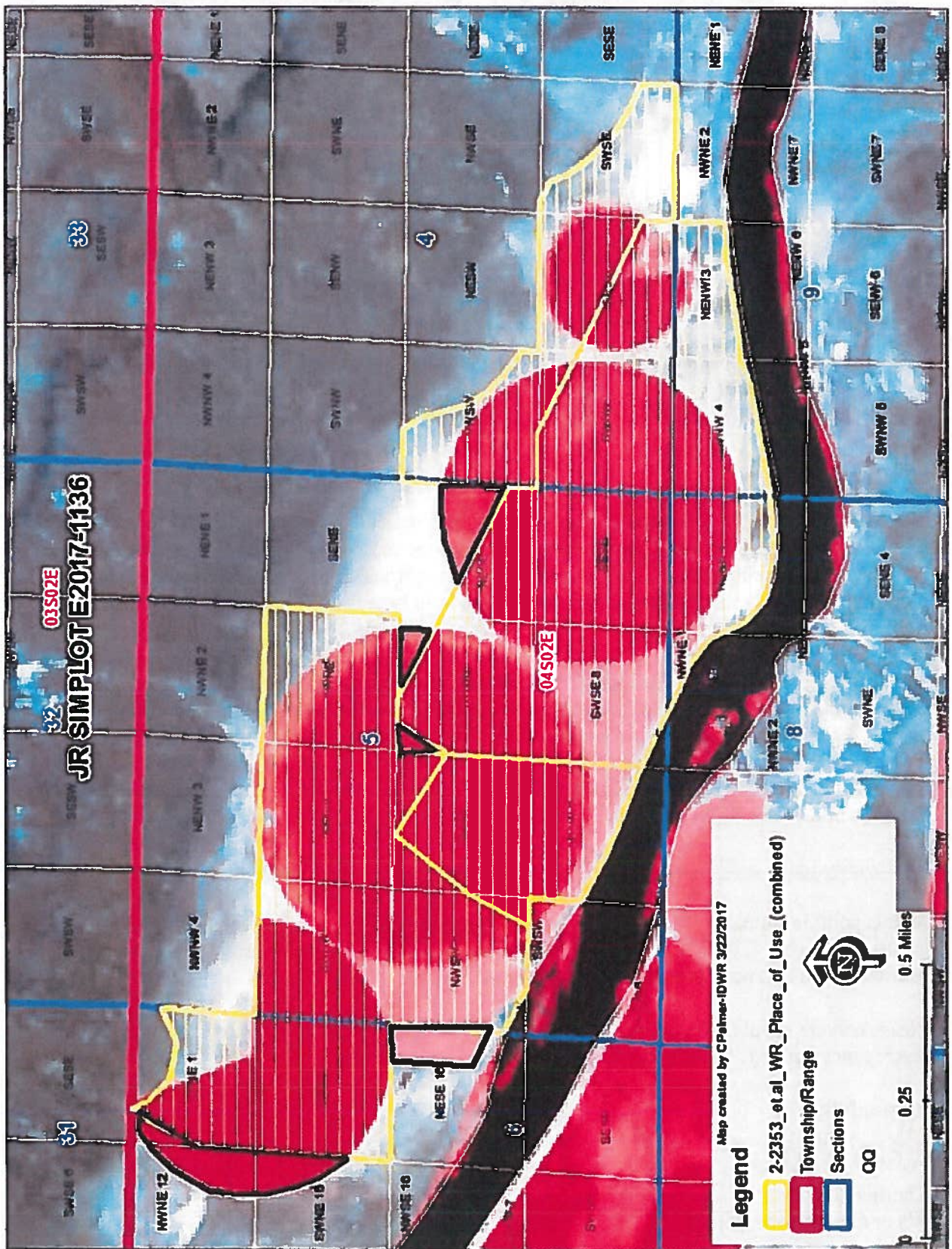
At this point in time, IDWR *has not* concluded you are irrigating acres exceeding what your water right(s) authorize. IDWR will reevaluate this specific issue next year to verify that a transfer was submitted and that no expanded use has occurred.

Please contact me at (208) 287-4944 if you have any questions. Your help to resolve the discrepancies noted above is appreciated.

Respectfully,

Cherie Palmer
Water Compliance Bureau

cc: Nick Miller-IDWR Western Region
Rob Whitney-Water District 02, Watermaster



6/28/2016 Sentinel Satellite Infrared Imagery overlain with water right authorized place of use (yellow) and those acres which fall outside the authorized place of use (black).



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

June 5, 2017

Cherie Palmer
Water Compliance Bureau
State of Idaho
Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

RECEIVED

JUN 06 2017

**DEPARTMENT OF
WATER RESOURCES**

Re: IDWR Water Right No. 2-2353.

Dear Cherie:

In response to your letter dated April 7, 2017, I am enclosing an Application for Transfer of Water Right 2-2353 and an application to rent water from the Board's Water Supply.

The enclosed transfer application corrects the places of use on the land Simplot owns shown on the map included with your letter. I am also enclosing a check in the amount of \$500.00 to cover your transfer filing fee

The enclosed water bank rental application is intended to rent water from the bank under Simplot's water rights 2-10471 and 2-10472 to irrigate land owned by BLM. This land was once irrigated under an agricultural lease. Once that lease expired, Simplot applied for a new lease and we have been working toward executing a new lease for several years. Attached to the water bank rental application is a copy of our most recent correspondence with the BLM on this subject (dated March 15, 2017). It is our impression that the delay in completing this lease may be attributable to employee turnover within the Boise District Office of the BLM. We are not aware of any objections raised by the BLM to this use. The matter is simply low priority among the many competing demands for BLM resources.

Please accept the enclosed applications for filing in an attempt to address the concerns expressed in your April 7, 2017 letter.

Sincerely,

Vic Conrad
Land, Water & Asset Recovery

Enclosure

c: M. Clements
K. Frisch





United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Boise District Office
3948 Development Avenue
Boise, Idaho 83705



In Reply Refer To:
IDI-36485 (ID111)
2920

MAR 15 2017

Darcy Helmick
Simplot Livestock Company
1301 Highway 67
Grandview ID 83624

Greetings:

BLM recently completed a records review and we noted that your application for a new Lease on federal land is still pending. Whether or not you are still interested in obtaining this Lease agricultural production, please complete the bottom portion of this letter and return it to the attention of Loris Schmit, at the above address, prior to May 1, 2017. Any further information the BLM needs to process your application will be requested at a later date.

Please return this letter after you have completed the bottom portion or contact Jeff Jackson, Supervisory Realty Specialist, at (208) 384-3309 or jkjackson@blm.gov with any questions/concerns regarding this matter. If we do not receive a response from you by May 1, 2017, the application will be closed without further action.

Sincerely,

Amanda Hoffman

Amanda Hoffman
Morley Nelson Snake River Birds of Prey
National Conservation Area Manager

Big Foot Bar Ag Lease

(Please check appropriate box)

IDI-36485



Yes, I am still interested in obtaining this Lease.



No, I am not interested in obtaining this Lease. Please consider this as official notification that I am withdrawing my application.

Darcy Helmick Land Manager
Simplot Livestock Company
Signature (include Title, if company/partnership, etc.)

3-18-17
Date

COPY
mailed original