

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT NO. 132

RECEIVED

MAR 27 2017

DEPARTMENT OF
WATER RESOURCES

This is to certify that:

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

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

Summary of Water Rights or Portions Rented from the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
24-4017	9/18/1890	SAGE CREEK	0.90	158.6	45.3	0.02	3.5
Rental Totals			0.90	158.6	45.3	0.02	3.5

Term of Rental: This rental shall take effect when all parties have signed it and shall continue in effect until December 31, 2017

Annual Rental Fee:

2017: \$269.62

The full fee for the rental of the above-described right(s) is \$269.62 for 2017. The rental fee includes an administrative fee of \$269.62 for 2017. Note that the renter is obligated to pay only the administrative fees associated with the water right(s) 24-4017.

Total Water Use Authorized Under Rental Agreement [Click here to enter text.](#)

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)
INDUSTRIAL	0.90	113.3
Combined Total	0.90	113.3

** The authorized water usage reflects a reduction from the water right elements rented, to account for a change in nature of use.*

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK RENTAL AGREEMENT NO. 132

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:

J. R. Simplot Company

By: 
Signature of Renter

21 March 2017
Date

David Spurling
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 3/28/2017

Rental approved by IDWR 

Date 3-28-2017

WATER SUPPLY BANK RENTAL AGREEMENT NO. 132

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

SAGE CREEK NESE Sec. 18, Twp 09S, Rge 46E, CARIBOU County

Beneficial Use
INDUSTRIAL

Diversion Rate
0.90 CFS

Volume
113.30 AF

BENEFICIAL USE & SEASON OF USE

Water Right No.
24-4017

From
4/15

To
10/15

Diversion Rate
0.90 CFS

RENTERS PLACE OF USE: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08S	45E	24													X			X	
08S	45E	25	X			X									X		X	X	
08S	45E	36	X			X									X				
08S	46E	18											X	X			X	X	
08S	46E	19	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
08S	46E	20							X			X							
08S	46E	30		X	X		X	X	X	X	X	X	X	X		X	X		
08S	46E	31		X	X		X	X	X	X	X	X	X	X	X	X	X	X	
09S	45E	1																X	
09S	45E	12	X			X									X			X	
09S	45E	13	X	X	X	X								X	X	X	X	X	
09S	45E	23																X	
09S	45E	24	X	X	X	X	X		X	X	X	X	X	X		X			
09S	45E	25					X	X											
09S	45E	26	X	X		X													
09S	46E	6	X L1	X L2	X		X L3	X L4	X	X	X	X	X	X	X	X	X		
09S	46E	7		X	X		X	X	X	X	X	X	X	X		X	X		
09S	46E	18		X			X	X	X	X	X		X	X			X		
09S	46E	19		X			X	X		X									

WATER SUPPLY BANK RENTAL AGREEMENT NO. 132

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. 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.
9. 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. 01.
10. This right does not grant any right-of-way or easement across the land of another.
11. Industrial use is for dust abatement for a mining access road.

Idaho Water Resource Board
Water Supply Bank Rental Agreement No. 132
24-4017

Effective until December 31, 2017

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
-  Townships
-  PLS Sections
-  Quarter Quarters



RECEIVED

FEB 01 2017

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 <i>Application to Rent Water from the Board's Water Supply Bank</i>
		☒	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)

24-4017

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Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant J. R. Simplot Company

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

Street City State Zip Code

Email Address vic.conrad@simplot.com Phone Number 208-780-7359

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 David Spurling Professional Title Sr. V.P. and Secretary

Organization Same as Applicant Relationship to Applicant Same as Applicant

Mailing Address Same as Applicant

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 diverted from the South Fork of Sage Creek into a storage that will be used to fill water trucks. Aft
the trucks are filled, water will be applied for dust suppression on a mine haul road.

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)
0.9 CFS	113.5 AF	CFS	AF	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 15, 2017		☒	☐	☐	☐	☐	☒ Process application as soon as possible	☐ Return application to applicant
		1	2	3	4	5		

* 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.

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 using a suction intake, pump, motor & pipeline into a water storage. Water trucks will be filled from the storage then will be applied to a mine haul road for dust suppression.

- 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
T9S R46E Sec 18 SENESE	South Fork Sage Creek	None

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: Dust Suppression from: April 15 (mm/dd) to: Oct 15 (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:

NA

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)
24-4017	Irrigation	0.90	181.2	45.3		0.90	113.5	45.3
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**:

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**:

Water will be used for dust suppression in lieu of irrigation

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:

Water has been rented for the same purpose for the last several years. The proposed use is temporary and will cease once mining is complete.

- 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

David Spurling

Printed Name of Applicant

Date

27 Jan 2017

Signature of Representative

Printed Name of Representative

Date

Mail to:

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

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:

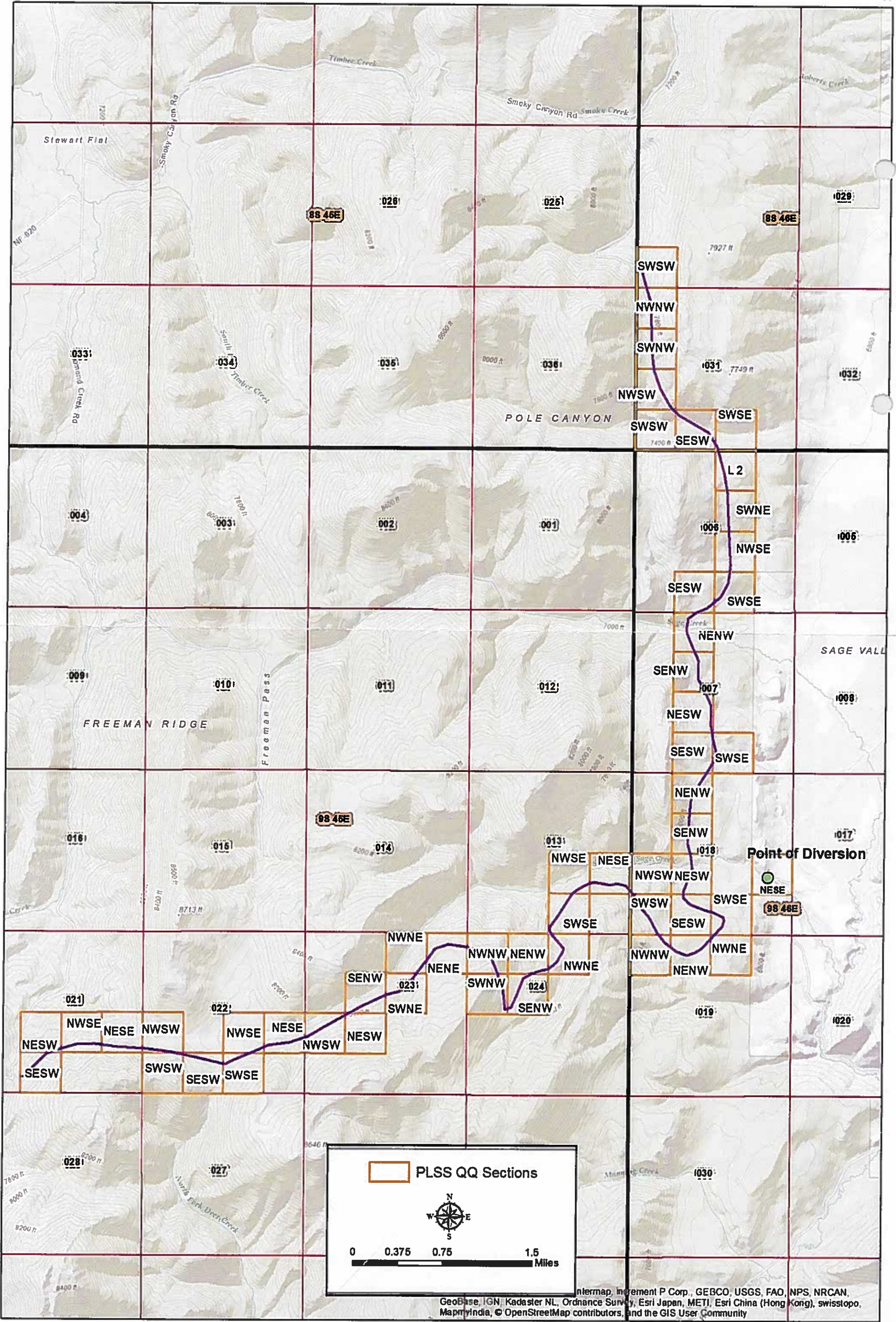
- A. Rental requests that propose to divert surface water rights via ground water POD(s) (wells); and
- B. Rental requests that propose to divert ground water from one aquifer when the right being rented authorizes the diversion of ground water from a hydraulically connected, tributary aquifer.

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 the Water Supply Bank for Dust Abatement 2017





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

March 29, 2017

J R SIMPLOT CO
PO BOX 27
BOISE ID 83707

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 24-4017**

Dear Renter:

Please find enclosed a receipt in the amount of **\$269.62** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 158.6 acre-feet of water for industrial use during 2017. 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. C103262
Rental Agreement (copy)

c: Sascha Marston – Fiscal
James Cefalo – IDWR Eastern Regional Office



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

208 336 2110

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MAR 27 2017

**DEPARTMENT OF
WATER RESOURCES**

March 22, 2017

Debbie Judd
Technical Records Specialist
State of Idaho
Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

Re: IDWR Water Bank Rental Agreement; 24-4017.

Dear Debbie:

Enclosed is the partially executed Water Supply Bank Rental Agreement for that portion of water right number 24-4017 leased to the Water Supply Bank. Please arrange for the Agreement to be signed by the Idaho Water Resource Board and the IDWR, then return a fully executed original to me.

Sincerely,

Vic Conrad
Land, Water & Asset Recovery

Enclosure



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

March 15, 2017

J R SIMPLOT CO
PO BOX 27
BOISE ID 83707

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 24-4017**

*****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 **\$2,696.20** was calculated based on the current rental rate of \$17.00 per acre-foot times a diversion volume of 158.6 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 \$269.62.** 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 \$269.62 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

Webster, Clay

From: Webster, Clay
Sent: Tuesday, March 14, 2017 2:28 PM
To: Swank, Lyle
Subject: Watermaster comments on rental application for JR Simplot 24-4017
Attachments: Move.pdf; Rental Review Memo Simplot 24-4017.docx

Lyle,

We are currently processing this WSB rental. Do you have any concerns? Thanks.

Sincerely,
Clay Webster
Water Resource Agent Sr.
clay.webster@idwr.idaho.gov
208-287-4910
Idaho Department of Water Resources (IDWR)

MEMORANDUM

To: Water Right 24-4017

From: Clay Webster

Date: 3/14/2017

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

PURPOSE/NARRATIVE: The department received this application to divert 0.90 cfs and 113.5 af of water for industrial use for dust abatement on access roads in connection with the East Smokey Panel Mine Project from J. R. Simplot Company on 2/1/2017. This is a repeat of a rental that has been being approved yearly since 2010. This is a temporary use according to the application.

AUTHORITY TO FILE: This application was signed by David Spurling. He is listed as the Secretary of J R Simplot Company according to the annual report on the Secretary of State's website. The Point of diversion is on J R Simplot property according to current taxlot data. The POU is located on Caribou-Targhee National Forest land according to current taxlot data. This was approved by the BLM for a 12 year period in 2015.

WATER RIGHT VALIDITY: A portion of this right was placed in the bank as a lease rental package with this rental. This rental will use the entire portion placed in the bank.

INJURY TO OTHER WATER RIGHTS: The leased POD is off of Sage Creek. The rental POD is off of South Fork Sage Creek with no active water right diversions between the two. I have no injury concerns.

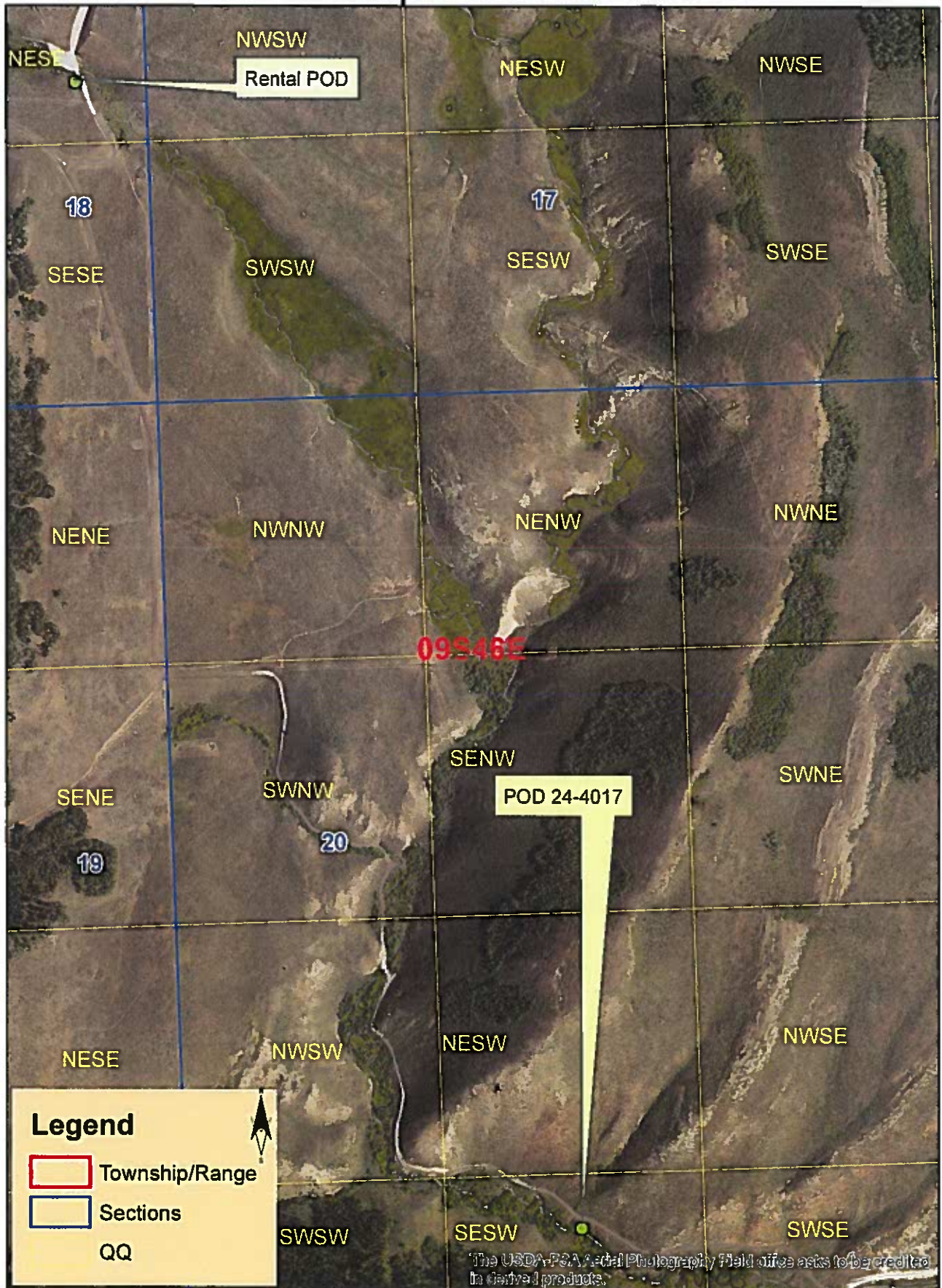
ENLARGEMENT OF USE: This rental will change the nature of use of the leased water right. This rental will be limited to the consumptive portion of the leased right. No other enlargement concerns are noted.

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 01. Watermaster and Regional office comments are being requested.

2017 JR Simplot Rental 24-4017



Webster, Clay

From: Cefalo, James
Sent: Monday, March 13, 2017 8:56 AM
To: Webster, Clay
Subject: RE: Regional Comments on WSB Rental Application for JR Simplot 24-4017

Clay,

I don't have any concerns with the proposed WSB Rental.

James

From: Webster, Clay
Sent: Friday, March 10, 2017 2:17 PM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Regional Comments on WSB Rental Application for JR Simplot 24-4017

James,

We are currently processing this rental application. Do you have any concerns? Thanks.

Sincerely,
Clay Webster
Water Resource Agent Sr.
clay.webster@idwr.idaho.gov
208-287-4910
Idaho Department of Water Resources (IDWR)



USDA Forest Service
Caribou-Targhee National Forest
<http://www.fs.fed.us/r4/caribou-targhee>

1405 Hollipark Drive
Idaho Falls, Idaho 83401
(208) 524-7500



USDI Bureau of Land Management
Idaho Falls District
<http://www.id.blm.gov/>

PUBLIC SCOPING LETTER

April 3, 2015

East Smoky Panel Mine Project Environmental Impact Statement

INTRODUCTION

The purpose of this letter is to notify you that the public scoping period under the *National Environmental Policy Act* (NEPA) for the Smoky Canyon Mine, East Smoky Panel Mine Project Environmental Impact Statement (EIS) is underway. We ask for your input to help us determine the scope and significant issues to analyze in this EIS.

Specifically, the East Smoky Panel Mine Project (the Project) for which the Agencies are preparing an EIS includes: 1) development of federal mineral leases IDI-015259, IDI-026843, and IDI-012890 held by Simplot; and, development and reclamation of an open pit phosphate mine, and associated infrastructure on a combination of federal land and split estate property; 2) potential modification of Lease IDI-015259 by adding 120 acres along the southwest side of the existing lease for mining-related disturbance; 3) development, construction, and reclamation of portions of transmission lines, access roads, and other miscellaneous disturbances off lease on federal land administered by the United States Forest Service (USFS), requiring Special Use Authorizations (SUAs); and 4) an amendment to the Caribou National Forest (CNF) Revised Forest Plan (RFP) that would relocate a designated utility corridor south around the southern end of the proposed open pit in order to relocate an existing 115 kilovolt (kV) line.

Please take the time to read the following information and let us know your concerns about the proposed action and the decisions to be made. We appreciate your contribution of time and effort, and believe the information you share with us will lead to a better decision. Please submit your comments according to the procedures described at the end of this letter. The information will be used to help us prepare a draft EIS. The draft EIS will be subject to a separate public comment period.

The Bureau of Land Management (BLM) and the USFS are co-lead agencies (hereafter referred to as the Agencies) preparing the EIS and public involvement is an important part of this process. The Agencies will prepare the EIS to inform our decisions on the Mine and Reclamation Plan (M&RP) for the East Smoky Panel Mine submitted by the J.R. Simplot Company (Simplot). The Project would occur on both National Forest System (NFS) and split estate¹ lands both on and off existing federal phosphate leases at the Smoky Canyon Phosphate Mine; located in Caribou County, Idaho, approximately 10 air miles west of Afton, Wyoming, and 5 miles west of the Idaho/Wyoming border (Figure 1). The EIS will evaluate the potential effects of the Project on the human environment and natural resources. No action alternative(s) to the proposed action have been developed to date, although other alternatives may be considered that could provide mitigation of potential impacts. At a minimum, the no action alternative will be fully evaluated and analyzed along with the proposed action.

¹ Split estate lands are those where the surface rights are in private ownership and the rights to develop the mineral resources are publicly held and managed by the federal government. In this project, the surface rights of split estate lands are owned by Simplot.

PROPOSED ACTION

Simplot submitted an M&RP proposal to the BLM for the East Smoky Panel Mine (the Project) in November 2013. The East Smoky Panel would consist of a single north-south linear open pit that would be mined sequentially in six phases, beginning at the north end and ending at the south end of the pit on split estate lands (Figure 2). The proposed M&RP provides for mining to occur over a 12 year period, with concurrent reclamation of mine facilities. Complete reclamation of disturbance on USFS and private lands is scheduled to be finished 2 to 3 years after cessation of mining.

While mining in the northern portion of the pit, overburden would be placed directly on the mined out Panel B, which is part of currently permitted mining operations for the Smoky Canyon Mine. The additional overburden material would elevate the surface contours to be closer to the pre-mining topography than the currently approved reclamation contours for Panel B. Overburden from the middle and southern portions of the pit would be backfilled in mined out portions of the East Smoky Panel pit for concurrent reclamation. The in-pit backfill would be maximized and there would be no external overburden placement, with the exception of some low-seleniferous overburden (waste rock with low potential to release environmental contaminants) to be used in haul road and ramp construction. An external haul road is proposed along the length of the ultimate pit. Chert and limestone from pit overburden would be used for coarse and durable armor in haul road, ditch, culvert, and pond design. To prevent contamination of water and reclamation vegetation, all run-of-mine (ROM) overburden would receive a geologic store and release cover system consisting of chert and/or limestone, overlain by Dinwoody² and/or Salt Lake Formation³, and a topsoil layer.

Approximately 37 acres of the currently designed pit would be constructed on presently unleased federal land managed by the USFS and is proposed to be backfilled with ROM overburden. If this is approved in the final decision, Lease IDI-015259 would require modification.

In addition to the pit and haul roads, new disturbance associated with development of the East Smoky Panel would include topsoil stockpiles, reclamation material borrow areas, stormwater ponds and ditches, and a possible dewatering pipeline. Two existing transmission lines that cross the proposed East Smoky Panel Project Area would be rerouted around the proposed open pit area. The transmission line crossing the northern portion of the Project Area would be relocated across the edge of the Panel B disturbance. The transmission line within a designated utility corridor crossing the southern portion of the Project Area would be relocated further south around the southern end of the proposed East Smoky Panel pit. Relocation of the utility corridor would require an amendment to the CNF RFP. Further mining-related developments on unleased federal land would require Special Use Authorizations from the USFS.

Approximately 98 percent of the disturbance associated with the Project would be reclaimed at the end of the Project. Reclamation to return the public land to productive and recreation uses following mining and after backfilling is complete would include a store and release cover placement, grading to return disturbed areas to more natural contours, topsoil handling, reestablishing drainage patterns, revegetation and monitoring.

Ore from the East Smoky Panel would be hauled in trucks over new and existing haul roads to the existing Smoky Canyon mill facilities to be concentrated. Ore concentrate from the mill would be transported to the Simplot fertilizer plant in Pocatello, Idaho via the existing slurry pipeline system. Mill tailings would continue to be deposited in the currently approved and permitted tailings disposal facilities located on Simplot property east of the mill. The existing approved Smoky Canyon Mine facilities have adequate capacity and would be utilized for the East Smoky Panel Mine operations, including: the main office/security building and parking; ore stockpile; mill and shop complex; tailings pond; pipeline; culinary and production wells; water storage tanks, septic system; substation; and blasting supply storage.

² The Dinwoody Formation is a stratigraphic unit in the overburden of the mine panels that consists of interbedded clay, shale, and siltstone.

³ The Salt Lake Formation is a stratigraphic unit in the overburden of the mine panels that generally consists of course to fine sands and gravel with varying amounts of silt and clay.

Total disturbance associated with the East Smoky Panel development would be approximately 847 acres (531 acres NFS lands and 316 acres split estate lands.)

NO ACTION ALTERNATIVE

Under the No Action Alternative, the proposed M&RP for development of the East Smoky Panel and Special Use Authorizations would not be approved, existing federal mineral leases would not be modified, the CNF RFP would not be amended, and mining at other panels of the Smoky Canyon Mine would continue as currently authorized. In this case, Simplot would retain and be eligible to invoke the mining rights granted in their existing federal leases at another time, with a revised M&RP that meets all regulatory and other established requirements.

AGENCIES INVOLVED

The BLM is the agency designated to manage federally-leased minerals such as phosphate and is also the lead agency for the preparation of the EIS. The USFS will act as the co-lead agency because the leases are located on NFS lands within the Soda Springs Ranger District of the Caribou-Targhee National Forest (CTNF). The Idaho Department of Environmental Quality (IDEQ) has statutory authority over surface water and groundwater and will be closely involved in the preparation of the EIS as a cooperating agency. The IDEQ will provide technical and regulatory guidance to the Project effort, particularly those aspects relating to water quality. The Idaho Department of Lands will also participate as a cooperating agency in the preparation of the EIS because of their responsibility for mining and reclamation under the Idaho Surface Mining Act. The BLM and USFS will solicit information throughout the analysis process from federal, state, tribal, and local agencies including the Idaho Department of Fish and Game, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service.

PURPOSE AND NEED

Simplot currently owns federal mineral leases at the site that grant them exclusive development rights that the United States must honor. The company is now interested in exercising those rights and has submitted an M&RP application for the agencies for approval. The purpose and need for the Agencies is to evaluate and respond to the proposed M&RP for the East Smoky Panel Mine by preparing a federal EIS.

FEDERAL DECISIONS TO BE MADE

The BLM and the USFS will make separate but coordinated decisions related to the proposed East Smoky Panel Mine Project. The BLM will approve, approve with modifications, or deny the proposed M&RP; and determine whether to modify lease IDI-015259. The decision will be based on the EIS and any recommendations the USFS may have regarding surface management of leased NFS lands. The USFS will make recommendations to the BLM concerning surface management and mitigation on leased lands within the CTNF. Special Use Authorizations from the USFS would be necessary for any off-lease disturbances/structures located within the CTNF and associated with the proposed action (e.g., topsoil storage, borrow areas, stormwater control features, transmission line relocation, and the dewatering pipeline). A forest plan amendment by the USFS would be necessary to change the route of an existing utility corridor designated by the forest plan in order to relocate the existing 115 kV power line contained within the corridor around the southern portion of the proposed pit.

PROJECT OBJECTIVES AND SCHEDULE

An EIS will be prepared to: (1) analyze and document the potential environmental and socioeconomic effects of the proposed action and alternatives for the East Smoky Panel Mine, both on and off lease; (2) evaluate, if necessary, mitigation measures to reduce potential site-specific environmental consequences; and (3) inform decisions related to the M&RP, the potential lease modification, and the RFP amendment. The tentative schedule is to release a draft EIS for public comment in summer 2016 and publish a final EIS in spring 2017.

The BLM and USFS will use the NEPA public participation requirements to assist the agencies in satisfying public involvement under Section 106 of the *National Historic Preservation Act*. Information about historic and cultural resources, including identification and evaluation of potential impacts and mitigation measures, will be documented in the EIS. The BLM and the USFS will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies.

PUBLIC MEETINGS

The agencies will hold at least three "open-house" style public scoping meetings that will include displays explaining the Project and a forum for asking questions and commenting on the Project. Scheduled meetings are as follows:

- Afton Civic Center, 150 S. Washington Street, Afton, WY; April 21, 2015, 5 – 7 pm
- Tribal Business Center—Pima Drive, Fort Hall, ID; *Date and Time To Be Determined*
- BLM Office, 4350 Cliffs Drive, Pocatello, ID; April 23, 2015, 5 – 7 pm

You are invited to attend any of the scoping meetings. Agency representatives will be available to talk about the Project and the EIS process and answer any questions you have. In addition, written and oral comments will be accepted at the public scoping meetings.

HOW TO COMMENT

The BLM and USFS are seeking input and written comments from federal, state, tribal, and local agencies, as well as any individuals and organizations that may be interested in, or affected by, the Project. To assist the agencies in identifying and considering issues and concerns related to the Project, comments should be as specific as possible. The portion of the Project related to Special Use Authorizations for off-lease activities is subject to the objection process pursuant to 36 Code of Federal Regulations (CFR) part 218 Subparts A and B. Only those who submit specific written comments on the Project, either during scoping or other designated opportunity for public comment, will be eligible as objectors (36 CFR 218.5). BLM appeal procedures found in 43 CFR part 4 apply to the portion of the Project related to the federal mineral lease(s).

Comments would be most helpful if they are directly relevant to the proposal and Project Area, and are received or postmarked on or before May 2, 2015. Comments received outside established public involvement timeframes will not be rejected; however, these comments may be considered secondary to comments received in a timely manner and may only be assessed to determine if they identify concerns that would substantially alter the assumptions, proposal, design, or analysis presented in the EIS.

Written, facsimile, hand-delivered, and electronic comments will be accepted. Please reference "East Smoky Panel Mine EIS" on all correspondence and identify whether you are submitting comments as an individual or as the designated spokesperson on behalf of an organization. Issues determined to be outside the scope of the proposal will not be addressed in the EIS.

Send comments to:

East Smoky Panel Mine EIS
c/o Stantec Consulting Services, Inc.
8160 South Highland Drive
Sandy, Utah 84093
Fax: (801) 942-1852
Email: blm_id_espm_eis@blm.gov

For further information contact:

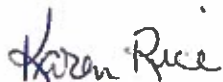
Steve Opp, Project Lead
Bureau of Land Management
Pocatello Field Office
4350 Cliffs Drive
Pocatello, Idaho 83204
Phone: (208) 478-6382
Email: jopp@blm.gov

Scoping information will also be available at the BLM and USFS websites:

- BLM Land Use Planning and NEPA Register for the East Smoky Panel Mine Project EIS at <https://www.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=39795&dctmId=0b0003e88074e314>
- Caribou-Targhee National Forest Current and Recent Projects Register for the East Smoky Panel Mine Project EIS at http://www.fs.fed.us/nepa/nepa_project_exp.php?project=44748

PUBLIC COMMENT DISCLOSURE

Comments, including names and street addresses of respondents, will be available for public review at the BLM Pocatello Field Office and subject to disclosure under the *Freedom of Information Act* (FOIA). They will be published as part of the EIS and other related documents. Individual respondents may request confidentiality. If you wish to withhold your name and/or address from public review or disclosure under the FOIA, you must state this prominently at the beginning of your written comment. The BLM will honor such requests to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, are available for public inspection in their entirety.



Karen Rice

Acting District Manager, Idaho Falls District, Bureau of Land Management



Garth Smelser

Forest Supervisor, Caribou-Targhee National Forest

Enclosures:

Figure 1 - General Project Area

Figure 2 - East Smoky Panel Mine Project Site Map

