

State of Idaho
Department of Water Resources
Amendment of Permit

NO. 63-33207

Priority: March 24, 2010

Maximum Diversion Rate: 3.00 CFS

This is to certify, that JR SIMPLOT
PO BOX 27
BOISE ID 83707

has applied for an amendment of a permit and the amendment is APPROVED for development of water as follows:

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
INDUSTRIAL	01/01 to 12/31	3.00 CFS

LOCATION OF POINTS OF DIVERSION:

GROUND WATER	SW1/4SE1/4	Sec. 11, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	SE1/4SE1/4	Sec. 11, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	SW1/4NW1/4	Sec. 12, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	SE1/4NW1/4	Sec. 12, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	NW1/4NE1/4	Sec. 13, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	NW1/4NW1/4	Sec. 13, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	NE1/4SE1/4	Sec. 13, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	NE1/4NE1/4	Sec. 14, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	NW1/4NE1/4	Sec. 14, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	SW1/4NE1/4	Sec. 14, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	SE1/4NE1/4	Sec. 14, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	NE1/4SE1/4	Sec. 14, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	NW1/4SE1/4	Sec. 14, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	Lt6 (NW1/4SW1/4)	Sec. 06, Twp 01N, Rge 02E, B.M., ADA County
GROUND WATER	Lt6 (NW1/4SW1/4)	Sec. 06, Twp 01N, Rge 02E, B.M., ADA County
GROUND WATER	Lt7 (SW1/4SW1/4)	Sec. 07, Twp 01N, Rge 02E, B.M., ADA County
GROUND WATER	Lt7 (SW1/4SW1/4)	Sec. 07, Twp 01N, Rge 02E, B.M., ADA County

PLACE OF USE: INDUSTRIAL

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N 01E 11															X	X	
01N 01E 12					X	X	X	X	X	X	X	X		X	X	X	
01N 01E 13	X	X	X	X	X	X							X				
01N 01E 14	X	X	X	X									X	X			
01N 02E 06									X		X						
									Lt6		Lt7						

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CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2018**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. This right does not grant any right-of-way or easement across the land of another.
5. Industrial use is for a meat processing and packing facility.
6. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
7. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
8. Failure of the right holder to comply with any condition of approval is cause for the Director to cancel this permit.
9. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
10. Diversion and use of water with a temperature greater than 85 degrees Fahrenheit is not authorized under this right.
11. The right holder shall install a measuring device acceptable to the Department at the points of diversion authorized under this right. The measuring device shall be capable of displaying diversion flow rate and totalized volume measurement. The right holder shall record the flow rate and volume measurements monthly for any calendar year in which water is diverted and used in connection with this right until notified by the Department. The records shall be made available to the Department upon request.
12. One point of diversion (well) authorized for this right shall include a measuring device or other suitable method to allow measurement of the static water level in the well. Water level measurements shall be made monthly throughout the year from the beginning of the diversion and use of water in connection with this right until notified by the Department. The records shall be made available to the Department upon request.
13. Proof of application of water to beneficial use shall be submitted no sooner than October 1, 2017, and no later than October 1, 2018. A report with no less than 4 years of diversion measurement and aquifer level water monitoring data shall be submitted in connection with filing proof of beneficial use. Submittal of a proof of beneficial use statement without the required report will not be accepted by the Department and may result in cancellation of the permit.

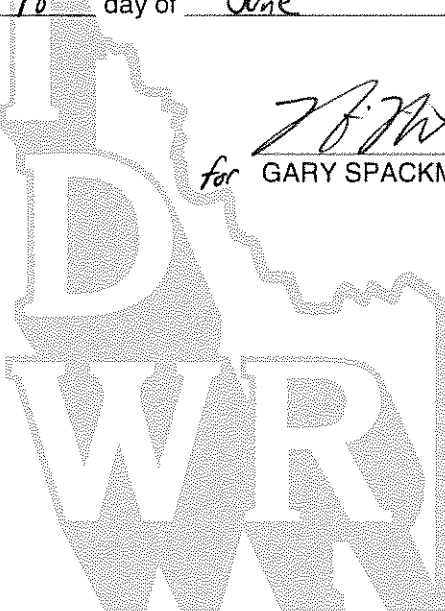
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14. If the Department determines, based on credible evidence, measurement reports, area data, or otherwise, there is a substantial likelihood that diversion and use of groundwater under this right is causing material injury to any senior water right(s), the Department may issue an order to the right holder to show cause why existing diversions should not be reduced under the permit, forego additional diversions, or provide adequate mitigation to remedy any such material injury. Any senior water user alleging material injury may petition the Department to commence a show cause hearing, and the Department shall conduct a hearing.
15. Use of water under this permit shall not exceed an annual diversion volume of 700 acre-feet.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 18th day of June, 2015.


for GARY SPACKMAN, Director





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 23, 2015

JR SIMPLOT
PO BOX 27
BOISE ID 83707

RE: Permit No. 63-33207

Amendment of Permit Approval Notice

Dear Permit Holder:

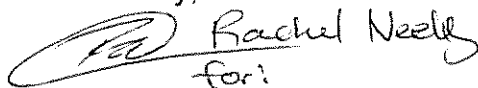
The Department of Water Resources has issued the enclosed amendment of permit approving your application to amend the permit referenced above. Please be sure to thoroughly review every element including the conditions of approval listed on your permit.

The amendment of permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,


for:

Nick Miller
Western Region Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Amendment of Permit) to the person(s) listed below:

RE: WATER RIGHT PERMIT NO. 63-33207

**JR SIMPLOT
PO BOX 27
BOISE ID 83707**

A handwritten signature in black ink, appearing to read 'Rachel Neely', is written over a horizontal line.

**Rachel Neely
Administrative Assistant I**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.