

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-12399

Priority: June 06, 1997

Maximum Diversion Rate: 3.40 CFS

It is hereby certified that J R SIMPLOT CO
C/O TERRY UHLING
999 MAIN ST STE 1300
BOISE ID 83707 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated June 06, 1997; and has submitted Proof of Beneficial Use on March 19, 2014. An examination confirms that water is diverted from:

SOURCE

BOISE RIVER

Tributary: SNAKE RIVER

and a water right has been established as follows:

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/15 to 11/15

DIVERSION RATE

3.40 CFS

LOCATION OF POINT(S) OF DIVERSION:

BOISE RIVER L6 (NW1/4NE1/4) Sec. 4, Twp 02N, Rge 03E, B.M. ADA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N 02E 1	3.1 L 1																3.1
02N 03E 4						0.7 L 4											0.7
02N 03E 5	0.9 L 1	1.0 L 2															1.9
02N 03E 6		8.5 L 2			13.0 L 3	9.6 L 4	0.1 L 5	0.8									32.0
03N 02E 36															1.3		1.3
03N 03E 31				0.1					12.0 L 3	10.0 L 4	23.0 L 4	35.0	4.6	3.2	23.0	2.2	113.1
03N 03E 32						0.9			2.5	4.5	1.5	2.4		1.0	3.8	1.4	18.0

Total Acres: 170.1

CONDITIONS OF APPROVAL

1. 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. 63.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
3. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

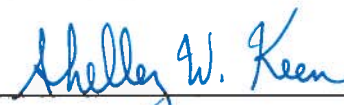
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4. If measured or calculated Boise River flows at the point of diversion are less than 240 cfs during the period beginning June 16 and ending February 29, water shall not be diverted pursuant to this right. If measured or calculated Boise River flows at the point of diversion are less than 1,100 cfs during the period beginning March 1 and ending May 31, water shall not be diverted pursuant to this water right. Measured or calculated Boise River flows at the point of diversion shall be based on gauged Lucky Peak Dam discharge minus the gauged diversion of the New York Canal.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
6. This right is subject to all prior water rights, including those water rights for power purposes that may otherwise be subordinated by contract entered into by the governor and Idaho Power Company on October 25, 1984, and ratified by the legislature pursuant to section 42-203B, Idaho Code.
7. This right does not grant any right-of-way or easement across the land of another.
8. The right holder shall exercise this right only when authorized by the District 63 watermaster when the Boise River is on flood release below Lucky Peak dam/outlet. Flood releases shall be determined based upon the Memorandum of Agreement between the Department of Army and the Department of Interior for Flood Control Operations of Boise River Reservoirs, dated November 20, 1953, contracts with Reclamation contract holders in the Boise River Reservoirs, the Water Control Manual for Boise River Reservoirs, dated April 1985, and any modifications adopted pursuant to the procedures required in these documents and federal laws. The right holder shall not seek, directly or indirectly, any change to the flood control operations of the 1985 Water Control Manual for Boise River reservoirs. This water right may not be used to divert water released from storage to augment lower Snake River flows during the migration of Snake River salmon as authorized under Idaho law, or for any purpose of use authorized under the water rights for Lucky Peak Reservoir.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 9th day of April, 2015.

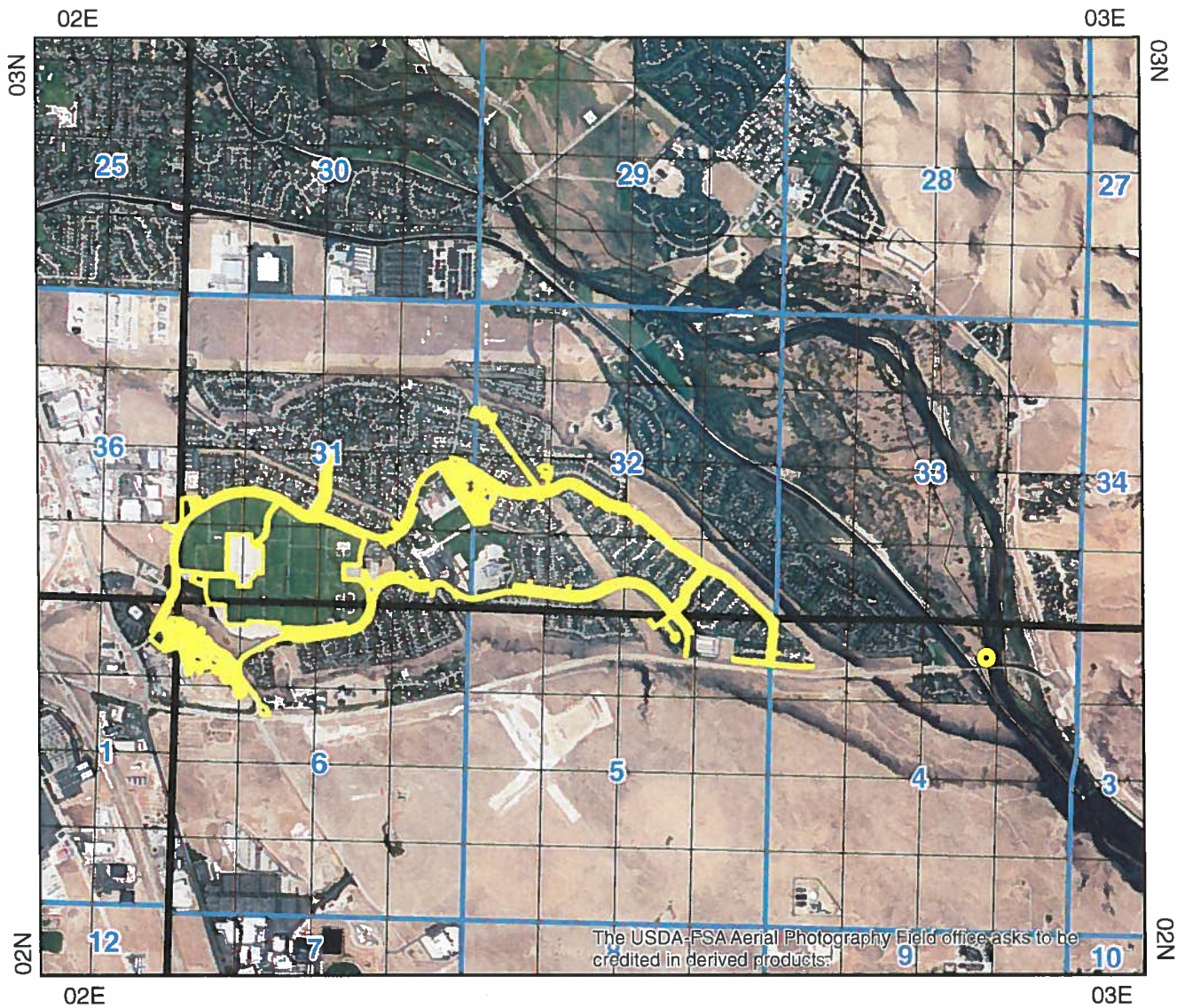

for GARY SPACKMAN
Director

J R Simplot Co

Attachment To Water Right License

63-12399

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



● Point of Diversion

Place Of Use Boundary

Townships

PLS Sections

Quarter Quarters

0 0.375 0.75 1.5 Miles





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 13, 2015

J R SIMPLOT CO
C/O DAVID SPURLING
999 MAIN ST STE 1300
BOISE ID 83707

RE: License No. 63-12399

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license 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.

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 208-287-4951.

Sincerely,

Pamela Skaggs

Water Rights Supervisor

Enclosure(s)

cc: WATER DISTRICT #63

CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2015, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

RE: WATER RIGHT NO. 63-12399

**J R SIMPLOT CO
C/O DAVID SPURLING
999 MAIN ST STE 1300
BOISE ID 83707**

**WATER DISTRICT #63
REX BARRIE
PO BOX 767
STAR ID 83669-0767**



**Darla Block
Technical Records Specialist**

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.