

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("**Lease**") is effective January 1, 2015, between the Idaho Water Resource Board ("**Board**"), and

Lessor: J R SIMPLOT CO
PO BOX 27
BOISE ID 83707
208-336-2110

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

<u>Water Right</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
63-31639	0.51 CFS	261.0 AF	NA	58.0 AC
Combined Lease Totals:	0.51 CFS	261.0 AF	NA	58.0 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 03/01 to 11/15

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2015.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

J R SIMPLOT CO
PO BOX 27
BOISE ID 83707

By 
Printed Name David Spurling

Date 5 JAN 2015
Title Senior Vice President, Secretary
and General Counsel

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-9098

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date January 7, 2015

Lease approved by IDWR 

Date 1/7/2015

ATTACHMENT A
WATER RIGHT NO. 63-31639
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water right or portion thereof leased to the bank is described as follows:

Lessor: J R SIMPLOT CO
PO BOX 27
BOISE ID 83707
208-336-2110

Priority Date: 09/07/1990

Source: GROUND WATER

Tributary to:

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	to 11/15	0.51 CFS	261.0 AF
	Total:		0.51 CFS	261.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼NW¼ Sec. 1 Twp 03N Rge 05W CANYON County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: 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	
03N	05w	1		20.0 L2	16.0		7.0 L3			15.0									58.0

Total Acres: 58.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed.
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

8. Acceptance of a right into 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.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. 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.
13. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

STATE OF IDAHO
WATER RESOURCE BOARDWATER SUPPLY BANK LEASE OR SALE
APPLICATION CHECKLISTRECEIVED
OCT 23 2014
DEPARTMENT OF
WATER RESOURCES

An application to lease or sell a water right into the Water Supply Bank must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Incomplete applications will be returned to applicants for completion.**

Designated Applicant J. R. Simplot CompanyWater Right No. 63-31639
One water right per applicationAll items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

YES

- ☒ Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
- ☒ Application filing fee of \$250.00. If you are submitting more than one lease application and the water rights have a common place of use, or common diversion rate, or common diversion volume, the combined maximum fee is \$500.00.

Attachment N/A YES

- 1A ☒ ☐ Contact information for **all owners** of the water right that is being leased or sold on this application.
- 1B ☒ An [Internal Revenue Service \(IRS\) Form W-9](#) for the Designated Applicant.
- 1C ☒ ☐ *Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).
- 1D ☒ ☐ Written consent from irrigation district or water delivery company.
- 1E ☒ ☐ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
- 2 ☐ ☒ Description of a water right portion offered to the Water Supply Bank.
- 3D ☒ ☐ Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.
- 4 ☒ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. If you don't already have a detailed map, you can create one using IDWR's online General Mapping Tool (<http://maps.idwr.idaho.gov/mapall/>) to locate a water right place of use or point of diversion.

Department Use Only

Fee Amount \$ <u>500⁰⁰</u>	Received By: <u>CS</u>	Date Received: <u>10/23/14</u>	Receipt # <u>C099549</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>JR Simplot Company</u>	

STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

1. CONTACT INFORMATION

- A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant J. R. Simplot Company Email Address _____
Mailing Address P. O. Box 27, Boise, Idaho 83707 Phone Number 208-336-2110

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the designated applicant completed an IRS Form W-9 (Attachment 1B)? Yes ☒ No ☐
- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).
- D. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 1D).
- E. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☐ No ☒
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1E).

Name of Representative _____ Organization _____
Professional Title _____ Email Address _____
Mailing Address _____ Phone Number _____

☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

Water Right Number 63-31639 ☐ The full water right is being offered to the Bank.

OR

☒ A part of the water right is being offered to the Bank.
(If a portion of a water right is being offered, complete Attachment 2)

3. GENERAL INFORMATION

- A. Please provide a description of the current water diversion system.

Well, Pump, Underground Pipelines, Overhead Center Pivot Sprinkler System

- B. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank.
Water rights owned by the Wilder Irrigation District.

- C. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
 If yes, describe. Yes. The place of use will be irrigated with water from the Wilder Irrigation District

- D. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
 If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. _____

- E. Is this water right involved in any other IDWR process such as an application for transfer or a mitigation plan? Yes ☐ No ☒
 If yes, describe. _____

4. SALE/LEASE AGREEMENT

- A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☐?
 If lease, for a period from Jan/1/2015 to Dec/31/2015 (maximum lease period 5 years).
(Month / Day / Year) (Month / Day / Year)
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
current rental rate.

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture provisions are stayed.
5. Acceptance of a water right into the bank does not, in itself, confirm the validity of the water right or any elements of the water right.

Signature of Designated Applicant

David Spurling
 Printed Name

14 OCT 2014
 Date

Signature of Authorized Representative

Sr. V.P. Secretary and General Counsel
 Printed Name

 Date

Mail to:

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

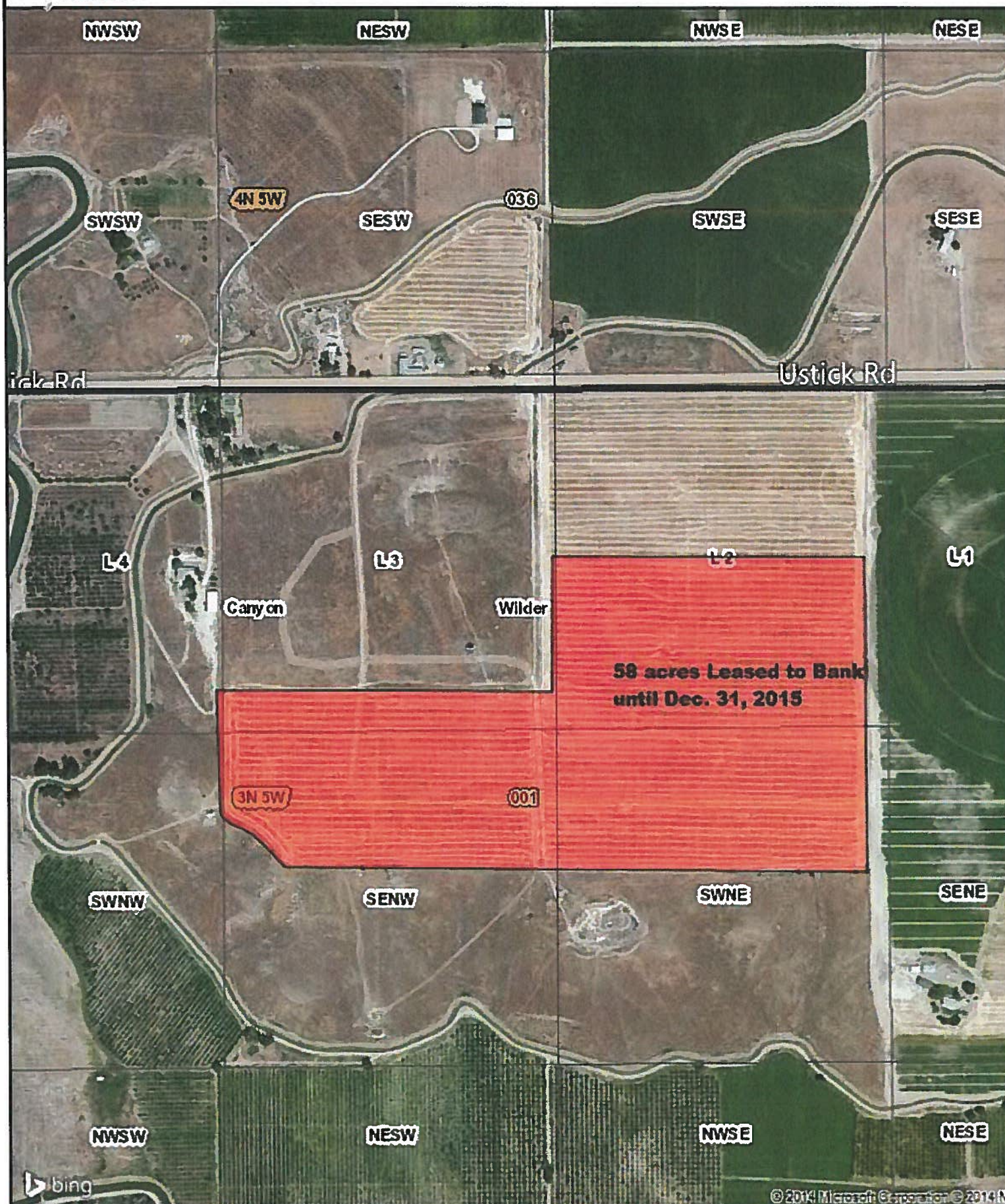
List all individuals or business entities that are owners of the property to which the water right on this application is appurtenant. All water right holders must be signatories to a Water Supply Bank Lease Application however only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

Water Right No. 63-31639

	Designated Applicant	Applicant #2	Applicant #3
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

Lease of 58 acres (63-31639) until Dec 31, 2015





J.R. SIMPLOT COMPANY ONE CAPITAL CENTER 999 MAIN STREET SUITE 1300
P.O. BOX 27 BOISE, IDAHO 83707 (208) 336-2110 FAX (208) 389-7515

CORPORATE HEADQUARTERS

RECEIVED

JAN 07 2015

DEPARTMENT OF
WATER RESOURCES

January 5, 2015

Clay Webster
Water Resource Agent
State of Idaho
Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

Re: Water Supply Bank Lease Contracts for 63-31639.

Dear Clay:

Enclosed are duplicate partially executed originals of both of the Water Supply Bank Lease Contracts involving the above referenced water right. Please arrange for the contracts to be signed by Brian Patton on behalf of the Idaho Water Resource Board then return a fully executed original of each contract 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 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

December 24, 2014

VIC CONRAD
J R SIMPLOT CO
PO BOX 27
BOISE ID 83707
208-336-2110

RE: APPLICATION(S) TO LEASE WATER RIGHT 63-31639 TO THE WATER SUPPLY BANK

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

Dear Applicant:

The Department of Water Resources has completed its review of your applications to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for each of application your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return executed copies to you. The Lease Contract is not considered final until you and the Department have both signed.

The rights will automatically be released from the Bank at the end of the lease contract, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your rights may not be available for immediate release if they have been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact me at 287-4910.

Sincerely,

Clay Webster
Water Resource Agent

Enclosure: Proposed Lease Contracts
Receipt # C099549

MEMORANDUM

To: Water Right No. 63-31639
From: Emalee Rushing
Date: 12/23/2014
Re: Review of Applications to Lease Water Right to the State Water Supply Bank

PURPOSE/NARRATIVE: On October 13, 2014, the department received two applications to lease this water right to the bank. One application requested that 58 acres be leased to the bank from January 1, 2015 to December 31, 2015 and the other requested that the remaining 18 acres be leased into the bank from January 1, 2015 to December 31, 2020. The contract for the 2nd application for lease will be for 5 years and the lease expiration date will be December 31, 2019 rather than December 31, 2020.

There is also a discrepancy on the calculation of the diversion rate for each portion. This water right is 76.0 acres with a 0.67 cfs diversion rate and a diversion volume of 342.0 AF.

Acres to be Leased	Diversion Rate on Application	Actual Rate	Volume
18.0	0.18 cfs	0.16 cfs	81.0 AF
58.0	0.49 cfs	0.51 cfs	261.0 AF
76.0	0.67 cfs	0.67 cfs	342.0 AF

I explained the discrepancies to Vic Conrad of J. R. Simplot Co. on 12/18/14. He agreed that we can move forward with the lease contracts. He also indicated that the request on the rental should match the 0.16 cfs diversion rate for the 18.0 acres

AUTHORITY TO FILE: The application was signed by David Spurling, Senior VP, Secretary and General Counsel for J. R. Simplot Company. Canyon County tax records indicate that Valley Storage \$, and A V I Simplot Inc are the tax lot holders. The holder of the water right is J R Simplot Co.

WATER RIGHT VALIDITY: This water right was licensed on November 15, 2012 and forfeiture is not an issue. The place of use will continue to receive water from Wilder Irrigation District.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone. Proper rental review should protect against enlargement.

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 lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: Western Region as no concerns.



J.R. SIMPLOT COMPANY ONE CAPITAL CENTER 999 MAIN STREET SUITE 1300
P.O. BOX 27 BOISE, IDAHO 83707 (208) 336-2110 FAX (208) 389-7515

CORPORATE HEADQUARTERS

October 22, 2014

Cherie Palmer
Senior Water Resource Agent
State of Idaho
Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

RECEIVED

OCT 23 2014

**DEPARTMENT OF
WATER RESOURCES**

**Re: Applications to Lease Water Right 63-31639 to the Water Supply Bank; and
Application to Rent a Portion of Water Right 63-31639 From the Water Supply Bank.**

Dear Cherie:

Enclosed are two applications to Lease Water Right No. 63-31639 to the Water Supply Bank:

1. One application is for the Lease of 18 acres (0.36 cfs/ 54 acre feet) to the Water Supply Bank beginning January 1, 2015 until December 31, 2020 (5 years).
2. The second application is for the Lease of 58 acres (0.49 cfs/ 288 acre feet) to the Water Supply Bank beginning January 1, 2015 until December 31, 2015.

In addition, I am enclosing an application to Rent that portion of Water Right No. 63-31639 leased to the Water Supply Bank identified in No. 1 above (18 acres; 0.36 cfs/ 54 acre feet for 5 years).

Please use the enclosed \$500.00 check to cover the application fees for both of enclosed applications to Lease water right 63-31639 to the Water Supply Bank.

Sincerely,

Vic Conrad
Land, Water & Asset Recovery

Enclosures