

# 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 COMPANY  
PO BOX 27  
BOISE ID 83707  
(208) 336-2110  
vic.conrad@simplot.com

RECEIVED

JAN 30 2015

DEPARTMENT OF  
WATER RESOURCES

## 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> |
|-------------------------------|-------------------|---------------------|-------------------|---------------------------|
| 35-7169                       | 0.73 CFS          | 152.4 AF            | 38.1 AC           | 53.1 AC                   |
| 35-7373                       | 0.22 CFS          | 44.4 AF             | 11.1 AC           | 53.1 AC                   |
| 35-10422                      | 0.06 CFS          | 15.6 AF             | 3.9 AC            | 53.1 AC                   |
| <b>Combined Lease Totals:</b> | <b>0.78 CFS</b>   | <b>212.4 AF</b>     | <b>53.1 AC</b>    | <b>53.1 AC</b>            |

The water rights described herein shall be available for rental from the Bank as follows:

Authorized Period of Use under Lease: 4/1 to 10/31

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.

SUPPORT DATA

IN FILE # 35-7169

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 COMPANY**

PO BOX 27  
BOISE ID 83707

By 

Printed Name David Spurling

Date 28 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 30, 2015

Lease approved by IDWR 

Date 1/30/2015

**ATTACHMENT A**  
**WATER RIGHT NO. 35-7169**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

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

**Lessor:** J R SIMPLOT COMPANY  
 PO BOX 27  
 BOISE ID 83707  
 (208) 336-2110

**Priority Date:** 03/09/1971

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u>   | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u>   |
|-----------------------|---------------|-----------|-----------------------|-----------------|
| IRRIGATION            | 04/01         | to 10/31  | 0.73 CFS              | 152.4 AF        |
|                       | <b>Total:</b> |           | <b>0.73 CFS</b>       | <b>152.4 AF</b> |

**LOCATION OF POINT(S) OF DIVERSION:**

|              |           |         |         |         |                |
|--------------|-----------|---------|---------|---------|----------------|
| GROUND WATER | NW¼NE¼NE¼ | Sec. 07 | Twp 05S | Rge 31E | BINGHAM County |
| GROUND WATER | SE¼SW¼SE¼ | Sec. 06 | Twp 05S | Rge 31E | BINGHAM County |
| GROUND WATER | SW¼SE¼SW¼ | Sec. 06 | Twp 05S | Rge 31E | BINGHAM County |
| GROUND WATER | NE¼NW¼SW¼ | Sec. 07 | Twp 05S | Rge 31E | BINGHAM County |
| GROUND WATER | NW¼NE¼NW¼ | Sec. 08 | Twp 05S | Rge 31E | BINGHAM 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 |        |
| 05S | 31E | 6   |    |    |    |    |     |     |     |     |    | 1.3 | 7.2 | 11.0 |    |    |    |    | 19.5   |
| 05S | 31E | 7   |    |    |    |    | 9.8 | 7.0 | 7.6 | 9.2 |    |     |     |      |    |    |    |    | 33.6   |

Total Acres: 53.1

Limited to acres within place of use described above: 38.1 AC

**COMBINED LIMITS OF LEASED RIGHT:**

| <u>Combined Rights</u>            | <u>Lease Rate</u> | <u>Lease Volume</u> | <u>Acre Limit</u> | <u>Total Leased Acres</u> |
|-----------------------------------|-------------------|---------------------|-------------------|---------------------------|
| 35-7169, 35-7373,<br>and 35-10422 | 0.78 CFS          | 212.4 AF            | 53.1 AC           | 53.1 AC                   |

**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. Unleased portions of Rights 35-7169, 35-7373, and 35-10422 when combined shall not exceed a total diversion rate of 5.61 cfs, a total annual maximum diversion volume of 1535.6 af at the field headgate, and the irrigation of 383.9 acres.
13. Right 35-10422 is an enlargement of Rights 35-7169 and 35-7373 pursuant to Section 42-1426, Idaho Code.
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
15. 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. 120.

**ATTACHMENT A**  
**WATER RIGHT NO. 35-7373**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

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

**Lessor:** J R SIMPLOT COMPANY  
 PO BOX 27  
 BOISE ID 83707  
 (208) 336-2110

**Priority Date:** 01/18/1974

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u>   | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u>  |
|-----------------------|---------------|-----------|-----------------------|----------------|
| IRRIGATION            | 04/01 to      | 11/01     | 0.22 CFS              | 44.4 AF        |
|                       | <b>Total:</b> |           | <b>0.22 CFS</b>       | <b>44.4 AF</b> |

**LOCATION OF POINT(S) OF DIVERSION:**

|              |           |         |         |         |                |
|--------------|-----------|---------|---------|---------|----------------|
| GROUND WATER | NW¼NE¼NE¼ | Sec. 07 | Twp 05S | Rge 31E | BINGHAM County |
| GROUND WATER | SE¼SW¼SE¼ | Sec. 06 | Twp 05S | Rge 31E | BINGHAM County |
| GROUND WATER | SW¼SE¼SW¼ | Sec. 06 | Twp 05S | Rge 31E | BINGHAM County |
| GROUND WATER | NE¼NW¼SW¼ | Sec. 07 | Twp 05S | Rge 31E | BINGHAM County |
| GROUND WATER | NW¼NE¼NW¼ | Sec. 08 | Twp 05S | Rge 31E | BINGHAM 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 |        |
| 05S | 31E | 6   |    |    |    |    |     |     |     |     |    | 1.3 | 7.2 | 11.0 |    |    |    |    | 19.5   |
| 05S | 31E | 7   |    |    |    |    | 9.8 | 7.0 | 7.6 | 9.2 |    |     |     |      |    |    |    |    | 33.6   |

Total Acres: 53.1

Limited to acres within place of use described above: 11.1 AC

**COMBINED LIMITS OF LEASED RIGHT:**

| <u>Combined Rights</u>            | <u>Lease Rate</u> | <u>Lease Volume</u> | <u>Acre Limit</u> | <u>Total Leased Acres</u> |
|-----------------------------------|-------------------|---------------------|-------------------|---------------------------|
| 35-7169, 35-7373,<br>and 35-10422 | 0.78 CFS          | 212.4 AF            | 53.1 AC           | 53.1 AC                   |

**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. Unleased portions of Rights 35-7169, 35-7373, and 35-10422 when combined shall not exceed a total diversion rate of 5.61 cfs, a total annual maximum diversion volume of 1535.6 af at the field headgate, and the irrigation of 383.9 acres.
13. Right 35-10422 is an enlargement of Rights 35-7169 and 35-7373 pursuant to Section 42-1426, Idaho Code.
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
15. 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. 120.

**ATTACHMENT A**  
**WATER RIGHT NO. 35-10422**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

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

**Lessor:** J R SIMPLOT COMPANY  
 PO BOX 27  
 BOISE ID 83707  
 (208) 336-2110

**Priority Date:** 07/31/1987

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u>   | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u>  |
|-----------------------|---------------|-----------|-----------------------|----------------|
| IRRIGATION            | 04/01         | to 10/31  | 0.06 CFS              | 15.6 AF        |
|                       | <b>Total:</b> |           | <b>0.06 CFS</b>       | <b>15.6 AF</b> |

**LOCATION OF POINT(S) OF DIVERSION:**

|              |           |         |         |         |                |
|--------------|-----------|---------|---------|---------|----------------|
| GROUND WATER | NW¼NE¼NE¼ | Sec. 07 | Twp 05S | Rge 31E | BINGHAM County |
| GROUND WATER | SE¼SW¼SE¼ | Sec. 06 | Twp 05S | Rge 31E | BINGHAM County |
| GROUND WATER | SW¼SE¼SW¼ | Sec. 06 | Twp 05S | Rge 31E | BINGHAM County |
| GROUND WATER | NE¼NW¼SW¼ | Sec. 07 | Twp 05S | Rge 31E | BINGHAM County |
| GROUND WATER | NW¼NE¼NW¼ | Sec. 08 | Twp 05S | Rge 31E | BINGHAM 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 |        |
| 05S | 31E | 6   |    |    |    |    |     |     |     |     |    | 1.3 | 7.2 | 11.0 |    |    |    |    | 19.5   |
| 05S | 31E | 7   |    |    |    |    | 9.8 | 7.0 | 7.6 | 9.2 |    |     |     |      |    |    |    |    | 33.6   |

Total Acres: 53.1

Limited to acres within place of use described above: 3.9 AC

**COMBINED LIMITS OF LEASED RIGHT:**

| <u>Combined Rights</u>            | <u>Lease Rate</u> | <u>Lease Volume</u> | <u>Acre Limit</u> | <u>Total Leased Acres</u> |
|-----------------------------------|-------------------|---------------------|-------------------|---------------------------|
| 35-7169, 35-7373,<br>and 35-10422 | 0.78 CFS          | 212.4 AF            | 53.1 AC           | 53.1 AC                   |

**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. Unleased portions of Rights 35-7169, 35-7373, and 35-10422 when combined shall not exceed a total diversion rate of 5.61 cfs, a total annual maximum diversion volume of 1535.6 af at the field headgate, and the irrigation of 383.9 acres.
13. Right 35-10422 is an enlargement of Rights 35-7169 and 35-7373 pursuant to Section 42-1426, Idaho Code.
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
15. 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. 120.

STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

WATER SUPPLY BANK LEASE OR SALE  
APPLICATION CHECKLIST

DEC 15 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. 35-07169  
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](http://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 \$ 3000.Received By: gndDate Received: 12-15-14Receipt # C099699W-9 received? Yes ☐ No ☐ (Route W-9 to Fiscal)

Name on W-9:

**STATE OF IDAHO  
WATER RESOURCE BOARD**

## APPLICATION 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 vic.conrad@simplot.com  
Mailing Address P.O. Box 27, Boise, ID 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 David Spurling Organization J.R. Simplot Company  
Professional Title Sr. VP, Secretary, & General Counsel Email Address vic.conrad@simplot.com  
Mailing Address P.O. Box 27, Boise, ID 83707 Phone Number 208-336-2110

☐ 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 35-07169 ☐ 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.

Wells, pipelines, pumps, motors

- 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.  
35-7373; 35-10422

C. Will the present place of use continue to receive water from any other source?

Yes ☐ No ☒

If yes, describe. \_\_\_\_\_

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 ☒?

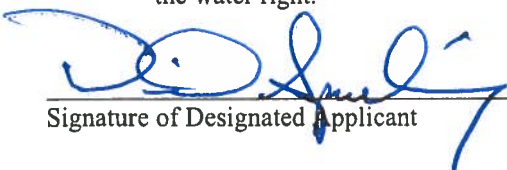
If lease, for a period from 1/1/2015 to 12/31/2015 (maximum lease period 5 years).  
(Month / Day / Year) (Month / Day / Year)

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.  
Market 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 ank 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

9 DEC 2014  
Date

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

#### Mail to:

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



J R SIMPLOT COMPANY, PO BOX 27, BOISE, ID 83707-0027  
TELEPHONE: 208-336-2110

November 21, 2014

J R SIMPLOT COMPANY  
CORPORATE OFFICE  
MAILING ADDRESS:  
PO BOX 27  
BOISE, ID 83707-0027

PHYSICAL ADDRESS:  
999 MAIN STREET  
BOISE, ID 83702

Substitute Form W-9 and Supplemental Data Request

PART 1: TAX STATUS

Corporation:

J R SIMPLOT COMPANY

Name of C Corporation

1955

Incorporation Date

8 2 - 0 1 9 6 6 1 1

Employer ID Number

DO BUSINESS AS:

GRAND VIEW FARMS

JACKLIN SEED

L & L RANCHES

NATIONAL SEED

POTATO & ASSOCIATED PRODUCTS

QUALITY DRIVEN CUSTOM PACKAGING LLC

PRO PRODUCT FERTILIZER

SIMPLOT AGRIBUSINESS

SIMPLOT FEEDERS LLC

SIMPLOT FOOD GROUP

SIMPLOT GROWER SOLUTIONS

SIMPLOT PARTNERS

SIMPLOT SILICA

SIMPLOT SOILBUILDERS

US WHOLESALE

VALLEY STORAGE

WESTERN STOCKMENS (WSI)

PART 2: 1099 REPORTING EXEMPTION AND EXCEPTIONS

Backup Withholding Exempt Payee Code

FATCA Exempt Reporting Code (if any)

5 - Corporation

PART 3: CERTIFICATION OF BUSINESS STATUS (Please check all that apply)

This firm is:

☒

Large Business (LB)

For business classification definitions, please refer to Code of Federal Regulation 13 CFR 124, contact your local Small Business Administration office, or visit their website at [www.sba.gov](http://www.sba.gov).

PART 4: SIGNATURE:

Under penalties of perjury, I certify that (1) the number shown on this form is the correct taxpayer identification number, (2) the payee is not subject to backup withholding due to failure to report interest and dividend income or because the payee is exempt from backup withholding, (3) the payee is a U.S. person, and (4) the FACTA code(s) entered on this form (if any) indicate that the payee is exempt from FATCA reporting is correct.

Print Name of Person completing this form: Kristen Barber

Signature:

Title:

Address:

City, State, Zip Code: Boise, ID 83707-0027

*Kristen Barber*  
Tax Accountant V

Date: 11/21/2014

Phone: ( 208 ) 336-2110

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**ATTACHMENT 2**

**DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK**

1. Water Right Number \_\_\_\_\_ Amount (cfs/ac-ft) 0.78 Nature of Use Irrigation Period of Use 4/1 to 10/31

\_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_\_ to \_\_\_\_\_

Total Amount: \_\_\_\_\_

2. Source of water \_\_\_\_\_ Groundwater \_\_\_\_\_ tributary to \_\_\_\_\_

3. Point(s) of Diversion:

| Twp | Rge | Sec | Lot | ¼  | ¼  | ¼  | County  |
|-----|-----|-----|-----|----|----|----|---------|
| 5S  | 31E | 7   |     | NE | NW | SW | BINGHAM |
|     |     | 6   |     | SE | SW | SE | BINGHAM |
|     |     | 7   |     | NW | NE | NE | BINGHAM |
|     |     | 8   |     | NW | NE | NW | BINGHAM |
|     |     | 6   |     | SW | SE | SW | BINGHAM |
|     |     |     |     |    |    |    |         |
|     |     |     |     |    |    |    |         |

4. Lands irrigated or place of use:

| TWP | RGE | SEC | NE |    |    |    | NW  |     |     |     | SW |     |     |     | SE |    |    |    | TOTALS |
|-----|-----|-----|----|----|----|----|-----|-----|-----|-----|----|-----|-----|-----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE  | NW  | SW  | SE  | NE | NW  | SW  | SE  | NE | NW | SW | SE |        |
| 5S  | 31E | 6   |    |    |    |    |     |     |     |     |    | 1.3 | 7.2 | 11. |    |    |    |    | 19.5   |
|     |     | 7   |    |    |    |    | 9.8 | 7.0 | 7.6 | 9.2 |    |     |     |     |    |    |    |    | 33.6   |
|     |     |     |    |    |    |    |     |     |     |     |    |     |     |     |    |    |    |    |        |
|     |     |     |    |    |    |    |     |     |     |     |    |     |     |     |    |    |    |    |        |
|     |     |     |    |    |    |    |     |     |     |     |    |     |     |     |    |    |    |    |        |
|     |     |     |    |    |    |    |     |     |     |     |    |     |     |     |    |    |    |    |        |
|     |     |     |    |    |    |    |     |     |     |     |    |     |     |     |    |    |    |    |        |
|     |     |     |    |    |    |    |     |     |     |     |    |     |     |     |    |    |    |    |        |
|     |     |     |    |    |    |    |     |     |     |     |    |     |     |     |    |    |    |    |        |
|     |     |     |    |    |    |    |     |     |     |     |    |     |     |     |    |    |    |    |        |
|     |     |     |    |    |    |    |     |     |     |     |    |     |     |     |    |    |    |    |        |
|     |     |     |    |    |    |    |     |     |     |     |    |     |     |     |    |    |    |    |        |
|     |     |     |    |    |    |    |     |     |     |     |    |     |     |     |    |    |    |    |        |
|     |     |     |    |    |    |    |     |     |     |     |    |     |     |     |    |    |    |    |        |

If the water right is for irrigation, show total number of acres offered to the Bank. Total Acres 53.1

**ATTACHMENT A**  
**WATER RIGHT NO. 35-07169**  
**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 83707-0027  
 (208) 336-2110

**Priority Date:** 3/9/1971

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u>   | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u>   |
|-----------------------|---------------|-----------|-----------------------|-----------------|
| IRRIGATION            | 04/01         | to 10/31  | 0.73 CFS              | 152.4 AF        |
|                       | <b>Total:</b> |           | <b>0.73 CFS</b>       | <b>152.4 AF</b> |

**LOCATION OF POINT(S) OF DIVERSION:**

|              |        |                                          |
|--------------|--------|------------------------------------------|
| GROUND WATER | NENWSW | Sec. 7, Twp 05S, Rge 31E, BINGHAM County |
| GROUND WATER | SESWSE | Sec. 6, Twp 05S, Rge 31E, BINGHAM County |
| GROUND WATER | NWNENE | Sec. 7, Twp 05S, Rge 31E, BINGHAM County |
| GROUND WATER | NWNENW | Sec. 8, Twp 05S, Rge 31E, BINGHAM County |
| GROUND WATER | SWSESW | Sec. 6, Twp 05S, Rge 31E, BINGHAM County |

**PLACE OF USE TO BE IDLED UNDER THIS LEASE:** IRRIGATION

| Twp | Rng | Sec | NE |    |    |    | NW  |     |     |     | SW |     |     |      | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|-----|-----|-----|-----|----|-----|-----|------|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE  | NW  | SW  | SE  | NE | NW  | SW  | SE   | NE | NW | SW | SE |        |
| 05S | 31E | 6   |    |    |    |    |     |     |     |     |    | 1.3 | 7.2 | 11.0 |    |    |    |    | 19.5   |
| 05S | 31E | 7   |    |    |    |    | 9.8 | 7.0 | 7.8 | 9.2 |    |     |     |      |    |    |    |    | 33.6   |

Total Acres: 53.1

Limited to acres within place of use described above: 38.1 AC

**COMBINED LIMITS OF LEASED RIGHT:**

| <u>Combined Rights</u>        | <u>Lease Rate</u> | <u>Lease Volume</u> | <u>Acre Limit</u> | <u>Total Leased Acres</u> |
|-------------------------------|-------------------|---------------------|-------------------|---------------------------|
| 35-7169, 35-7373 and 35-10422 | 0.78 CFS          | 212.4 AF            | 53.1 AC           | 53.1 AC                   |

**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.

This aerial map displays a land survey in Atomic City, featuring a grid of sections and their respective acreages. The map includes a scale bar (1000 ft, 500 m) and a north arrow in the top left corner.

**Section Acreages:**

- Top Left: 1.29 acres
- Top Middle: 7.17 acres
- Top Right: 10.95 acres
- Middle Left: 6.95 acres
- Middle Middle: 9.8 acres
- Middle Right: 9.15 acres
- Bottom Left: 7.59 acres
- Bottom Middle: 9.15 acres
- Bottom Right: 9.15 acres

**Section Labels:**

- Top Left: NWSE, NENE, NWSW, NESW, SWSW, SESE, SWNE, SENE
- Top Middle: NWSE, NENE, NWSW, NESW, SWSW, SESE, SWNE, SENE
- Top Right: NWSE, NENE, NWSW, NESW, SWSW, SESE, SWNE, SENE
- Middle Left: NWSE, NENE, NWSW, NESW, SWSW, SESE, SWNE, SENE
- Middle Middle: NWSE, NENE, NWSW, NESW, SWSW, SESE, SWNE, SENE
- Middle Right: NWSE, NENE, NWSW, NESW, SWSW, SESE, SWNE, SENE
- Bottom Left: NWSE, NENE, NWSW, NESW, SWSW, SESE, SWNE, SENE
- Bottom Middle: NWSE, NENE, NWSW, NESW, SWSW, SESE, SWNE, SENE
- Bottom Right: NWSE, NENE, NWSW, NESW, SWSW, SESE, SWNE, SENE

**Central Section:** Atomic City, SS 31E

**Confidential - Disclaimer:** This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

February 2, 2015

J R SIMPLOT CO  
PO BOX 27  
BOISE ID 83707

**RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 35-7169, 35-7373 and 35-10422**

Dear Lessor:

Water Rights **35-7169, 35-7373 and 35-10422** were leased into the Water Supply Bank on January 1, 2015 in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

The rights will automatically be released from the Bank on **December 31, 2015**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** 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. This form is available from our public website at [www.idwr.idaho.gov](http://www.idwr.idaho.gov).

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,

*for* Clay Webster  
Water Resource Agent  
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: James Cefalo- IDWR Eastern Region and Water District No. 120



J.R. SIMPLOT COMPANY ONE CAPITAL CENTER 999 MAIN STREET SUITE 1300  
P.O. BOX 27 BOISE, IDAHO 83707-0027 (208) 336-2110 FAX (208) 389-7515

CORPORATE HEADQUARTERS

RECEIVED

JAN 30 2015

DEPARTMENT OF  
WATER RESOURCES

January 29, 2015

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

RE: Application to Lease Water Right(s) 35-7169, 35-7373 and  
35-10422 to the Supply Bank

Dear Clay,

Enclosed are two signed original Water Supply Bank Lease Contracts for the above mentioned water rights. Once reviewed and signed by the Department, please mail one original to my attention.

Please let me know if you have any questions, or need additional information. I can be reached at (208) 389-7258 or [diana.gastanaga@simplot.com](mailto:diana.gastanaga@simplot.com).

Thank you for your assistance.

Sincerely,

Diana Gastanaga  
Property Administrator

**Edl, Michele**

---

**From:** Cefalo, James  
**Sent:** Wednesday, January 28, 2015 11:35 AM  
**To:** Edl, Michele  
**Subject:** RE: region and watermaster comment on JR Simplot leases in B35

I don't have any concerns about leasing the water rights back into the WSB.

James

---

**From:** Edl, Michele  
**Sent:** Monday, January 26, 2015 4:22 PM  
**To:** Cefalo, James  
**Subject:** region and watermaster comment on JR Simplot leases in B35

James,

I have completed my review of 5 WSB lease applications, submitted by J R Simplot, for 2015 season . In essence, these are re-ups of leases that expired in December 2014. 35-2553A and 35-2713 have independent POU's. 35-7169, 35-7373, & 35-10422 share a POU and have combined limits. Please give me your feedback about these applications.

I have attached my review memos and jpgs showing the lease locations.

Thank you.  
Michele



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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

January 27, 2015

J R SIMPLOT COMPANY  
PO BOX 27  
BOISE ID 83707

**RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 35-7169, 35-7373 and 35-10422 TO THE WATER SUPPLY BANK**

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

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right(s) to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return BOTH Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy 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 on **December 31, 2015**, 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,

*for*   
Clay Webster  
Water Resource Agent  
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

## MEMORANDUM

**To:** Water Right No(s). 35-7169, 35-7373, and 35-10422

**From:** Michele Edl

**Date:** 1/26/2015

**Re:** Review of Application to Lease Water Right to the State Water Supply Bank

---

**PURPOSE/NARRATIVE:** On December 15, 2014, IDWR received an application to lease portions of the above rights to the WSB for 2015. The three rights irrigate the same POU. 53.1 acres (primarily pivot corners) have been idled and offered to the bank. Essentially, the applicant is re-enlisting for the 2015 season, those portions of the rights which had been accepted into the WSB for the 2014 season.

**AUTHORITY TO FILE:** J.R. Simplot Company is listed with ISOS as C28407. David Spurling is listed as an officer and he signed the application.

**WATER RIGHT VALIDITY:** Water rights 35-7169, 35-7373 and 35-10422 were decreed in the SRBA on 2/15/2002. Right 35-10422 is an expansion right of the other two rights. Portions of the right were accepted into the bank in 2009 and have been leased to the WSB since then. Forfeiture is not an issue at this time.

**INJURY TO OTHER WATER RIGHTS:** No injury is apparent.

**ENLARGEMENT OF USE:** No enlargement is evident through the lease alone. The POU of this right is overlaid by right 35-4189 which authorizes irrigation through application of spent processing water.

**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 leases appear consistent with the conservation of water resources in Idaho.

**DEPARTMENT STAFF OR WATERMASTER COMMENTS:** The right is subject to Water District 120.

The idled acres depicted on the application map did not match the idled acres listed on the PLSS grid within the application. The differences were due to rounding. I based my calculations on the grid acres.