

RECEIVED

WATER SUPPLY BANK LEASE CONTRACT

NOV 19 2013

DEPARTMENT OF
WATER RESOURCES

This Lease Contract ("**Lease**") is effective September 27, 2013, 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>
2-10300A	8.00 CFS	1339.0 AF	NA	400.0 AC
2-10300B	8.00 CFS	NA	NA	400.0 AC
Combined Lease Totals:	8.00 CFS	1600.0 AF	400 AC	400.0 AC

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

Authorized Period of Use under Lease: April 1 to October 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, 2014.
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.

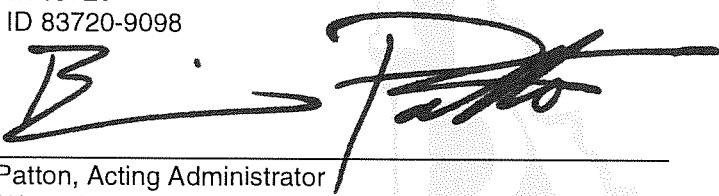
IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

J R SIMPLOT
PO BOX 27
BOISE ID 83707

By 
Printed Name David Spurting

Date 15 NOV 2013
Title ScUP, 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 11/20/2013

Lease approved by IDWR 

Date 11/20/2013

ATTACHMENT A
WATER RIGHT NO. 2-10300A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

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

Priority Date: 02/25/1963

Source: SNAKE RIVER

Tributary to: COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 10/31	8.00 CFS	1339.0 AF
	Total:		8.00 CFS	1339.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L4(SE¼SW¼SW¼) Sec. 22 Twp 05S Rge 04E ELMORE 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	
04S	04E	32		40.0	39.0		40.0		2.0	40.0	40.0	40.0	40.0	40.0		39.0	40.0		400.0

Total Acres: 400.0

Limited to acres within place of use described above: NA

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>
2-10300A and 2-10300B,	8.00 CFS	1600.0 AF	400 AC	400 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. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water right having no subordinated early or late irrigation use and a propriety date earlier than 7/31/2012.
13. Rights 2-10300A and 2-10300B when combined shall not exceed a total diversion rate of 8.00 cfs, a total annual maximum diversion volume of 1600.0 af at the field headgate, and the irrigation of 400 acres.
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.

ATTACHMENT A
WATER RIGHT NO. 2-10300B
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

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

Priority Date: 05/10/1965

Source: SNAKE RIVER

Tributary to: COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	to 11/15	8.00 CFS	NA
	Total:		8.00 CFS	NA

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L4(SE¼SW¼SW¼) Sec. 22 Twp 05S Rge 04E ELMORE 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	
04S	04E	32		40.0	39.0		40.0		2.0	40.0	40.0	40.0	40.0	40.0		39.0	40.0		400.0

Total Acres: 400.0

Limited to acres within place of use described above: NA

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>
2-10300A and 2-10300B,	8.00 CFS	1600.0 AF	400 AC	400 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. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water right having no subordinated early or late irrigation use and a propriety date earlier than 7/31/2012.
13. Rights 2-10300A and 2-10300B when combined shall not exceed a total diversion rate of 8.00 cfs, a total annual maximum diversion volume of 1600.0 af at the field headgate, and the irrigation of 400 acres.
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.

RECEIVED

SEP 27 2013

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
WATER RESOURCE BOARD
 Receipt No. 1097802
 Fee Amount \$ 500.00
 Date/by 9-27-13 HO
 (For Department Use Only)

APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

 Name of Seller/Lessor J. R. Simplot Company Phone 208-336-2110
 Mailing address P. O. Box 27 Email _____

A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK

 If the entire right is for sale or lease, check here ☒, list the water right number, and skip to Part B.

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>2-10300A & 2-10300B</u>	_____	_____	_____ to _____
	_____	_____	_____ to _____
	_____	_____	_____ to _____

Total Amount: _____

2. Source of water _____ tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	1/4	1/4	1/4	County

4. Lands irrigated or place of use: *See Part D for additional information regarding place of use.

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

If the right is for irrigation, show total number of acres offered to the bank. Total Acres _____

B. OWNERSHIP

 1. Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
 If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.

 2. 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 to the proposed sale or lease and list name of entity:

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.

Pumping platform, intakes, pumps, motors, penstock.

2. Describe any other water rights used for the same purpose or at the same place of use as described above.

61-7088 and 61-11747

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

Yes ☒ No ☐**If yes, describe.** Groundwater diverted under 61-7088 and 61-11747

4. 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 right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.** _____

5. Is this water right involved in any other Department process such as an application for transfer or a mitigation plan? Yes
- ☐
- No
- ☒

If yes, describe. _____**D. REQUIRED ITEMS**

This form must be signed and submitted with the following REQUIRED items:

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.
3. A completed Internal Revenue Service (IRS) Form W-9 (attached). If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

E. SALE/LEASE AGREEMENT

1. Is the water right, or portion thereof, described above offered to the Idaho Water Resource Board (IWRB) for sale
- ☐
- or lease
- ☒
- ?

If lease, for a period from 10/1/2013 **to** 9/30/2018 **(not to exceed 5 years).** *

(Month / Day / Year) (Month / Day / Year)

2. 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 right for sale or lease to the Idaho Water Resource Board.**

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

Signature of Applicant

David Spurling, Senior Vice President, Secretary

Printed Name and Title*

Date

9/23/13

Signature of Applicant

and General Counsel

Printed Name and Title*

Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

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

* Request Lease 1 yr per 9-30-13 telecon with Vic Conrad at J R Simplot Co. no



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

November 21, 2013

J R SIMPLOT CO
PO BOX 27
BOISE ID 83707

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT(S) 2-10300A and 2-10300B

Dear Lessor:

Water Right(s) 2-10300A and 2-10300B were leased into the Water Supply Bank on September 27, 2013 in accordance with the executed original Lease Contract enclosed. **The portion of your right(s) described on the Lease Contract is considered leased into the Bank, and should remain unused, until it is formally released from the Bank.**

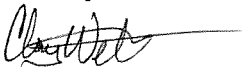
The rights will automatically be released from the Bank on **December 31, 2014**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To request an extension of the lease period, submit a Request to Extend the Lease Term form along with applicable fees to the Department prior to the release date. These forms are available 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 287-4944.

Sincerely,


for

Cherie Palmer
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract
Receipt 0097802

c: John Westra- IDWR Western Regional Manager



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

NOV 19 2013

DEPARTMENT OF
WATER RESOURCES

November 15, 2013

State of Idaho
Department of Water Resources
Attn: Cherie Palmer
P. O. Box 83720
Boise, ID 83720-0098

RE: Water Supply Bank Lease Contract
Water Right(s) 2-10300A & 2-10300B

Ms. Palmer,

Enclosed please find the executed copies of the above-mentioned Water Supply Bank Lease Contracts.

We appreciate your assistance in this matter, and look forward to receiving a fully executed original for our records.

If you have any questions, I can be reached at (208) 389-7258 or diana.gastanaga@simplot.com.

Thank you for your time.

Diana Gastanaga
Property Coordinator



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

November 13, 2013

J R SIMPLOT CO
PO BOX 27
BOISE ID 83707

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 2-10300A & 2-10300B 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 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.

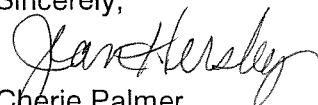
The rights will automatically be released from the Bank on **December 31, 2014**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To request an extension of the lease period, submit a Request to Extend the Lease Term form along with applicable fees to the Department prior to the release date. 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 287-4944.

Sincerely,


for Cherie Palmer
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

MEMORANDUM

TO: Water Right File 2-10300A, 2-10300B, 2-10471, and 2-10472
FROM: Daniel A. Nelson
DATE: October 28, 2013
SUBJECT: Cottonwood Canal Company Water Use Review

I have been asked to review the water rights 2-10300A, 2-10300B, 2-10471, and 2-10472 to show the amount of water use that has occurred since 1985. These water rights have a long and convoluted history. Apparently, the Cottonwood Canal Company (CCC) was formed in the early 1960's to supply water to some desert entry lands in the Glenns Ferry area. Water right application 2-2209 was filed on February 25, 1963, and the permit was approved for 89.6 cfs for the irrigation of 4,480 acres. The field exam was completed and the field examiner found that 4,480 acres had been irrigated with a rate of diversion of 40,500 gpm or 90.2 cfs. The water right was licensed February 11, 1963 for 79.7 cfs and 3,985 acres.

The desert land entries that this water supplied were canceled in 1972 by the Administrative Law Judge for fraudulent entry. This decision was upheld by the Interior Board of Land Appeals and the District Court. The District Court decision was affirmed on appeal to the U.S. District Court for the District of Idaho in August of 1981. In an Extension of Time to Avoid Forfeiture the Bureau of Land Management (BLM) claimed that the last year water was used on the project was 1981.

In 1986, three entities filed Extensions of Time to Avoid Forfeiture, since there was a dispute over ownership of the water right. In 1988, a Stipulation of Agreement was filed allowing the Department to process the Extension of Time to Avoid Forfeiture as a joint application. In 1988, three entities filed Water Supply Bank applications for the same water right. The water supply bank applications were returned and Extension of Time to Avoid Forfeiture was approved under the Joint application based on the 1988 Stipulation of Agreement.

In 1991, one of the entities, Black Mesa Farms, filed a Resumption of Beneficial use form claiming that 12.8 cfs was used to irrigate between 200 and 600 acres in 1988 through 1991. After the Resumption of Beneficial Use form was filed, Black Mesa applied with the other two entities to place this water in the Water Supply Bank. On September 14, 1990, the Idaho Water Resource Board adopted two resolutions allowing 8.8 cfs in the name of the BLM and 58.1 cfs in the name of the CCC to be placed into the Water Supply Bank. These resolutions had a disclaimer stating that stated "That rental of water from the bank under license No. 02-2209 be contingent upon the future review of the license and finding of the validity of the right and that this resolution shall not be considered an approval of any type of nature of the validity of the said water right."

On January 5, 2006, the CCC filed adjudication claim 2-10300 for 8.00 cfs on 400 acres of irrigation. Water right 2-10300 was claimed on the amount of land the field examiner found to be irrigated that was not included in the original water right license. These are also the same lands that Black Mesa Farms claimed to have irrigated from 1988 through 1991. Water right 2-10300 had an acre foot limit based on the water right license. During the Snake River Basin Adjudication Review, water right 2-10300 was altered into two separate water rights for the same 400 acres. Water right 2-10300A was for the amount licensed with the same priority date as the license. Water right 2-10300A

I couldn't find any documentation of activity for water right 2-2209 in the back files. However, there has been some recent Water Supply Bank activity for these four water rights. The recent Water Supply Bank Activity is as follows:

- Water rights 2-10300A and 2-10300B were recently transferred and the full 8.00 cfs and 400 acres were moved to another location. This transfer was approved on October 16, 2012. I am not sure if these water rights were used in 2013 or not. We don't have current data to tell us if the transfer has been accomplished.
- A Water Supply Bank Rental was approved on March 15, 2011 to use 2.90 cfs, 580 af, and 145 acres of water right 2-10449 from April 1, 2011 to October 31, 2015. Water right 2-10449 was the water right that water rights 2-10471 and 2-10472 were split from, so a portion of each right could be rented from the water supply bank.
- A Water Supply Bank Rental was filed on water right 2-10471 for 0.02 cfs, 15 af, and 10 acres from 7/1/2013 to 11/15/2013.
- A Water Supply Bank Rental was filed on water right 2-10472 for 0.02 cfs, 15 af, and 10 acres from 7/1/2013 to 11/15/2013.
- A Water Supply Bank Rental was filed on water right 2-10471 for 2.24 cfs, 168 af, and 112 acres from 7/1/2013 to 11/15/2013.
- A Water Supply Bank Rental was filed on water right 2-10472 for 2.24 cfs, 168 af, and 112 acres from 7/1/2013 to 11/15/2013.

CONCLUSION:

From the information I could attain, the 400 acres under water rights 2-10300A and 2-10300B could have been irrigated from 1988 through 1991, but the full water right was not been irrigated since 1981. Water right 2-10300A and 2-10300B were not placed into the Water Supply Bank, but they were decreed on July 31, 2012.

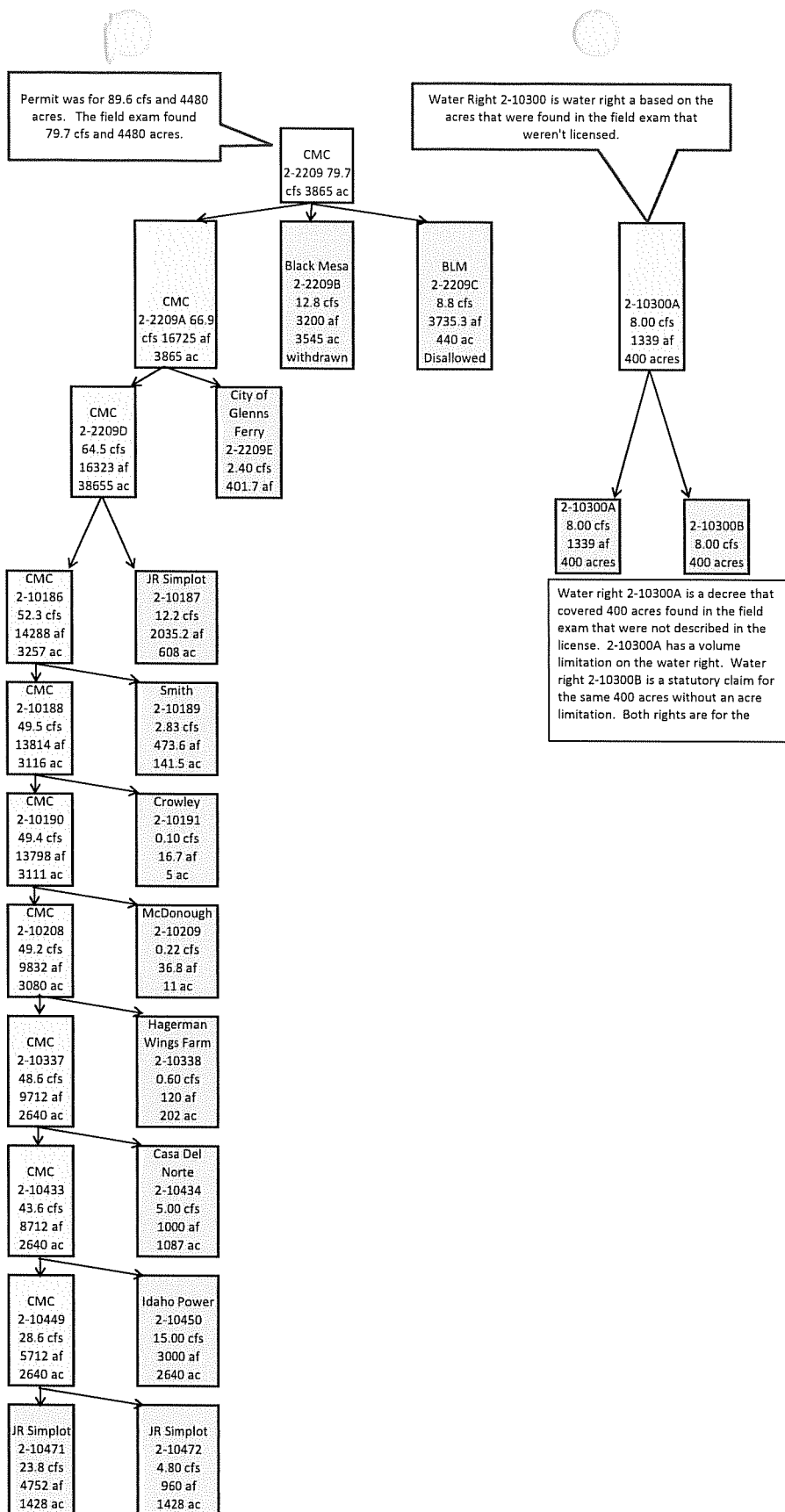
From my research water rights 2-10471 and 2-10472 have not been used since 1981. However, an Extension to Avoid Forfeiture was filed on these water rights from 1986 to 1991, and they were placed into the Water Supply Bank on March 22, 1991. The Water Supply Bank resolutions were contingent on the validity of the water right, but all of these water rights including the splits due to water right transfers and changes of ownership have been decreed in the SRBA.

All of the water rights that have been split from water right 2-2209 including 2-10471 and 10472 appear to have been decreed in 2012, so forfeiture shouldn't be considered an issue due to the issuance of the decrees. In reality, these water rights haven't been used since 1981, and have been vaguely protected in the Water Supply Bank.



The history of Water Supply Bank Rental activity for water right 2-2209 is fairly limited. However, there has been some recent rentals from the Water Supply Bank in the past 3 years. These rentals would only affect water rights 2-10471 and 2-10472, since water rights 2-10300A and 2-10300B have never been accepted into the Water Supply Bank.

To help make sense of the different splits of this water right, I created a split tree. I have attached this split tree to this memo.



MEMORANDUM

To: Water Right No(s). 2-10300A & 2-10300B
From: Jean Hersley and Pam Skaggs
Date: October 9, 2013
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: See attached memo

AUTHORITY TO FILE: .

WATER RIGHT VALIDITY: These rights were decreed in 2012 in the SRBA.

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: The leased right(s) are subject to Water District #02. Received Watermaster approval on October 24, 2013.

MEMORANDUM

TO: Water Right Files 2-10300A & 2-10300B
FROM: Pam Skaggs
SUBJECT: Water Supply Bank Lease Application Research
DATE: 09-30-2013

A Water Supply Bank (Bank) Lease application for these rights was received on 09-27-2013. The application notes an overlapping use of ground water Rights 61-7088 and 61-11747 on the same acres proposed leased to the Bank.

Review of recent actions on these rights shows the following:

- Partial Decrees issued 07-31-2012
- Transfer 78075 was approved 10-16-2012 changing the point of diversion & place of use of Snake River Rights 2-10300A & 2-10300B to 400 acres already irrigated under the larger groundwater place of use of Rights 61-7088 and 61-11747
- Ownership was conveyed by Water Right deed to J R Simplot Co. 10-25-2012
- Ownership Change of water rights was processed 09-16-2013 when submitted
- Bank Lease application received 09-27-2013.

I called Diana Gastanaga, representative of J. R. Simplot Co., to clarify the status of the rights proposed leased to the Bank. Vic Conrad also joined our telephone discussion to help clarify the history of the rights and purpose of the lease application. The right holder acquired the rights following the approval of Transfer 78075 to their property. The pump and diversion works are in place for the Snake River diversion as it serves other rights; however, the distribution system to the transferred place of use has not been completed and irrigation has not occurred under Rights 2-10300A and 2-10300B since the transfer approval or during the 2013 irrigation season. The ground water and surface water rights have not been used together on their common acres and are not currently considered stacked rights. This allows the rights to be rented from the Bank or transferred in the future so long as combined use of rights and sources on the common acres does not occur.

The proposed leased acres will continue to be irrigated by the original sole source of ground water while the right holder pursues sale of the surface water rights. If the sale is not completed, the Snake River rights distribution system will be completed and the rights used as transferred. The right holder proposes to keep the use of ground and surface rights separate. If the surface water rights are used, the overlapping ground water rights will be placed into the Bank. The ground and surface water rights will only become stacked together in the event all four rights are used to irrigate the common acres of the currently described place of use in a single season.

While discussing the possibilities of the rights being rented from the Bank, Vic Conrad requested that the leased rights be limited to a year-by-year lease to make them available more quickly if sold. The proposed lease period will be amended to an end date of 12-31-2014. The right holder will reevaluate at that time if an extension is desired.

A condition of approval of Transfer 78075 requires the transfer to be accomplished within 5 years. The purpose of this condition is to encourage non-use at the original place of use no longer authorized, and to protect users from potential forfeiture issues that may occur at the end of a five-year period. In this case, the ownership has changed and the right is now authorized at the new owner's property. Forfeiture is not currently an issue and non-use years will not accumulate while the rights are leased to the Bank. The right holder's representatives are aware of these issues and expect to resolve water use under these rights in a timely manner.



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

SEP 27 2013

DEPARTMENT OF
WATER RESOURCES

September 23, 2013

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

RE: Application to Sell or Lease a Water Right
To the Water Supply Bank
Water Right No. 2-10300A & No. 2-10300B

To Whom It May Concern:

Enclosed please find an executed Application to Sell or Lease a Water Right to the Water Supply Bank for the above referenced Water Right numbers. A check in the amount of \$500.00 for the applicable filing fees payable to IDWR is enclosed.

Let me know if you have any questions, and please send the final executed copies to my attention for our records. I can be reached at (208) 389-7258 or diana.gastanaga@simplot.com.

Thank you for your assistance.

Sincerely,

Diana Gastanaga
Property Coordinator