

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78656

This is to certify that: J R SIMPLOT CO
PO BOX 27
BOISE, ID 83707

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
61-2165	WR/DECREED	12/2/1963	5.030 cfs	1413.0 af	N/A	314.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

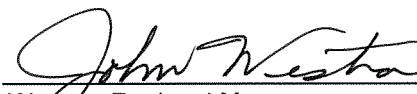
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
61-2165	YES	YES	YES	NO	YES	YES

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
61-2165	61-12291	3.870 cfs	1074.0 af	N/A	200.0	61-2165	1.160 cfs	339.0 af	N/A	59.0
COMBINED TOTALS		3.870 cfs	1074.0 af	N/A	200.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 21st day of October, 2013.


Western Regional Manager

SUPPORT DATA
IN FILE # 61-2165

Transfer No. 78656

SCANNED

OCT 29 2013

WATER RIGHT NO. 61-2165**As Modified by Transfer No. 78656**

In accordance with the approval of Transfer No. 78656, Water Right No. 61-2165 is now described as follows:

Right Holder: J R SIMPLOT CO
C/O TERRY UHLING
999 MAIN ST STE 1300
BOISE, ID 83707

Priority Date: 12/2/1963

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	3/01	to 11/01	1.160 cfs	339.0 af
			1.160 cfs	339.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SESE	Sec 31 Twp 04S Rge 04E	ELMORE County
GROUND WATER	NWSW	Sec 4 Twp 05S Rge 04E	ELMORE County
GROUND WATER	NESW	Sec 5 Twp 05S Rge 04E	ELMORE County
GROUND WATER	NESE	Sec 5 Twp 05S Rge 04E	ELMORE County
GROUND WATER	SENW	Sec 5 Twp 05S Rge 04E	ELMORE County
GROUND WATER	NWNW	Sec 5 Twp 05S Rge 04E	ELMORE County
GROUND WATER	SENE	Sec 6 Twp 05S Rge 04E	ELMORE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	04E	5											19.0	40.0					59

POU Total Acres: 59

CONDITIONS OF APPROVAL

1. The period of use for the irrigation described in this approval may be extended to 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 after 11/01 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than August 14, 2007.
2. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Transfer No. 78656

WATER RIGHT NO. 61-12291**As Modified by Transfer No. 78656**

In accordance with the approval of Transfer No. 78656, Water Right No. 61-12291 is now described as follows:

Right Holder: J R SIMPLOT CO
C/O TERRY UHLING
999 MAIN ST STE 1300
BOISE, ID 83707

Priority Date: 12/2/1963

Source: GROUND WATER

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
INDUSTRIAL	1/1	to 12/31	0.670 cfs	174.0 af
IRRIGATION	3/01	to 11/01	3.200 cfs	900.0 af
			3.870 cfs	1074.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWSE	Sec 8	Twp 03S	Rge 06E	ELMORE County
GROUND WATER	SWSE	Sec 8	Twp 03S	Rge 06E	ELMORE County
GROUND WATER	NENW	Sec 17	Twp 03S	Rge 06E	ELMORE County

PLACE OF USE: INDUSTRIAL

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03S	06E	8											X	X			X	X	0.0
03S	06E	17					X	X	X	X									0.0

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03S	06E	8											11.0	29.0					40.0
03S	06E	17					40.0	40.0	40.0	40.0									160.0

POU Total Acres: 200.0

CONDITIONS OF APPROVAL

1. Industrial use is for a meat processing plant.
2. The place of industrial use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this approval shall not be used for irrigation unless the water is first used in the industrial facility as authorized by this water right.

Transfer No. 78656

WATER RIGHT NO. 61-12291

As Modified by Transfer No. 78656

CONDITIONS OF APPROVAL

3. The period of use for the irrigation described in this approval may be extended to 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 after 11/01 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than August 14, 2007.
4. 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.
5. 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.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

October 24, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

J R SIMPLOT CO A NEVADA CORP
PO BOX 27
BOISE ID 83702-0027

Re: Transfer No. 78656
Water Right No. 61-2165

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

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

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

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

- Water Right 61-2165 was leased to the Water Supply Bank (bank) on Jun 1 2005 . The right will remain in the bank indefinitely, unless released earlier by the Idaho Water Resource Board or upon request by the right holder.

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

Sincerely,

A handwritten signature in cursive script that reads "Rachel Sommer".

Rachel Sommer
Administrative Assistant

Enclosures

Cc: SIDNEY WING
PO BOX 186
MOUNTAIN HOME ID 83647

CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2013 I mailed true and correct copies, true and correct copies of the documents described below with the United States Postal Service, postage prepaid mail with return receipt requested, and properly addressed to persons listed below:

**RE: Transfer No. 78656
 Water Right No. 61-2165**

**DOCUMENTS TRANSFER APPROVAL
SERVED: ACKNOWLEDGMENT TO WITHDRAWAL OF PROTEST
 EXPLANATORY INFORMATION SHEET**

**J R SIMPLOT CO A NEVADA CORP
PO BOX 27
BOISE ID 83702-0027**

**SIDNEY WING
PO BOX 186
MOUNTAIN HOME ID 83647**

A handwritten signature in cursive script, reading "Rachel Sommer", is written over a horizontal line.

Rachel Sommer
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

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

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MEMORANDUM

Type: In Office Conversation

Telephone

Meeting Notes

Follow-up

Log of Events

Other

To: Trans. File 78658

From: J. Westra, Western Reg.

Date: 9/18/13

RE: Contested Application

9/18/13 Vic Conrad, Simplot 389-7359

The protestant and Mr. Conrad are meeting tomorrow regarding the protest. Applicant may ask for a pre-hearing conference if negotiations are not fruitful. Will keep in touch.

9/24 Left message for Sid Wing regarding withdrawal of protest # 989-4605



State of Idaho

DEPARTMENT OF WATER RESOURCES

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www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 17, 2013

Sidney Wing
PO Box 186
Mountain Home ID 83647

**RE: Contested Application for Transfer No. 78656
Withdrawal of Protest**

Dear Protestant:

The Department of Water Resources acknowledges receipt of your withdrawal of protest on October 9, 2013 against the above referenced application.

Please contact this office if you have any questions regarding this procedure. Information about water rights and other matters administered by this agency is also available on the Internet at www.idwr.idaho.gov.

Sincerely,

A handwritten signature in black ink that reads "John Westra". The signature is written in a cursive, flowing style.

John Westra
Regional Manager

Cc: Applicant



State of Idaho

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 19, 2013

Sidney Wing
PO Box 186
Mountain Home, ID 83647

Vic Conrad
JR Simplot Co.
PO Box 27
Boise ID 83707

Re: Contested Application for Transfer No. 78656—JR Simplot Co.

Dear Parties:

Enclosed is a copy of the protest filed against the issuance of the above-referenced application. As part of the application process, the following are options available for resolution of contested (protested) applications:

-Direct contact with the protestant(s) to determine what is being disputed in the application and parties attempting to resolve the protest. Sincere conversation between the parties prior to initiation of formal proceedings can often resolve protest(s).

-Formal Proceedings consist of a pre-hearing conference & hearing through the water appropriation statute/rule process. A pre-hearing conference identifies the protest issues and reviews the resolution possibilities with the parties. If the issues can not be resolved, a formal hearing will be scheduled.

-Mediation through a certified professional mediator. The advantages can include: reduced costs and time that are associated with formal proceedings, the ability to address non-water concerns, more influence over a final settlement, and fast track processing by the Department for parties reaching a mediated agreement. If you are interested in this option, please contact our office for details.

The Applicant and Protestant should consider the best option for resolution of the contested application.

Should you have questions or concerns please contact me at the Western Regional Office, phone 334-2190.

Sincerely,

JOHN WESTRA
Western Regional Manager

Enclosure: Protest copy

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 09 2013

WATER RESOURCES
WESTERN REGION

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, and 42-222, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Application No. 78656 in the name of J.R. Simplot Co
2. Name of protestant Sidney Wing
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address P.O. Box 186, Mountain Home, Idaho 83647
5. Service telephone no. 587-8592 Email Address: WingKim@aol.com
6. Basis of protest (including statement of facts and law upon which the protest is based)
Basis for the concern of the declining water
table within the Mountain Home restricted water area.

(additional pages may be attached to describe nature of the protest)
_____- 7. What would resolve your protest? The refusal of Application No. 78656.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 5th day of September, 20 13.

Sidney Wing
Protestant

Protestant's Representative

Fee \$25.00

Received by JA

Receipt # W041497

Date 9/9/13

SEP 10 2013

RECEIVED

AUG 29 2013

WATER RESOURCES
WESTERN REGION

**PROPOSED
CHANGE OF WATER RIGHT**

J. R. Simplot Company of PO Box 27, Boise, ID, 83707, filed Application No. 78656 to transfer a portion of one water right with a 1963 priority date from ground water totaling 3.87 cfs. The purpose of the transfer is to convert 55 acres of irrigation to year round industrial use, move 200 acres to a new location, and leave 59 acres at the current place of use. The unchanged portion of the right will remain on land approximately 4.7 miles north of CJ Strike Reservoir, 0.7 miles east of Strike Dam Road and 2 miles south of Grand View Highway. The water to be transferred will be used approximately 0.5 miles south of I-84 and 4.5 miles northwest of Mountain Home.

For additional information concerning the property location, contact Western Region office at (208) 334-2190; or see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp for a full description of the right(s) and the proposed transfer. Protests may be submitted based on the criteria of Idaho Code § 42-222. Any protest against the proposed change must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 9/9/2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
First Publication: August 21, 2013
Last Publication: August 28, 2013

AFFIDAVIT OF PUBLICATION

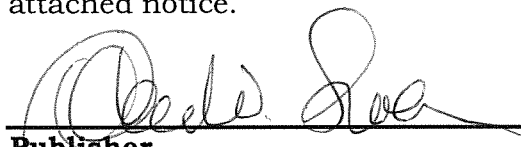
County of Elmore } ss.
State of Idaho }

I, **Coleen W. Swenson**, do solemnly swear that I am the Publisher of the:

Mountain Home News

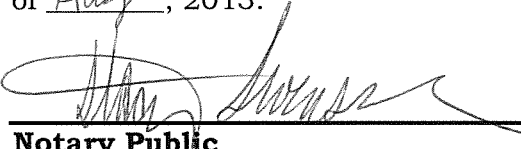
A weekly newspaper of general circulation, published once a week, in Mountain Home, Idaho, that the notice attached hereto which is a part of publication thereof; was published in said newspaper for 2 consecutive weeks, the first publication having been made on the 21st day of Aug, 2013, and the last publication having been made on the 28th day of Aug, 2013; every Wednesday issue of the paper during the period and time of publication and that the notice was published in the paper proper and not in a supplement thereof.

And I further swear that the said Mountain Home News has been continuously and uninterruptedly published in said Elmore County during the period of 78 consecutive weeks prior to the first publication of the attached notice.



Publisher

Subscribed and sworn to me this 28th day of Aug, 2013.



Notary Public

Residing in Mountain Home, Elmore County, Idaho.

My commission expires **11-17-2017**.

