

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 78075

This is to certify that: J R SIMPLOT CO
PO BOX 27
BOISE ID 83707
(208) 336-2110

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 Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
2-10300A	WR/Decreed	02/25/1963	8 cfs	1338.95 af	400.0	428.0	SNAKE RIVER
2-10300B	WR/Decreed	05/10/1965	8 cfs	N/A	400.0	428.0	SNAKE RIVER

Purpose of Transfer (Changes Proposed)

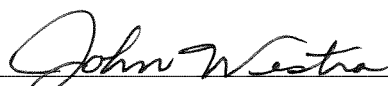
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
2-10300A	NO	YES	YES	NO	NO	NO
2-10300B	NO	YES	YES	NO	NO	NO

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>
2-10300A	2-10300A	8 cfs	1338.95 af	N/A	400.0		N/A	N/A	N/A	N/A
2-10300B	2-10300B	8 cfs	N/A	N/A	400.0		N/A	N/A	N/A	N/A
COMBINED TOTALS		8 cfs	N/A	N/A	400.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 16th day of October, 20 12


John Westra, Western Regional Manager

SUPPORT DATA

2-10300A

SCANNED

OCT 23 2012

WATER RIGHT NO. 2-10300B
As Modified by Transfer No. 78075

In accordance with the approval of Transfer No. 78075, Water Right No. 2-10300B is now described as follows.

Right Holder: COTTONWOOD MUTUAL CANAL CO
C/O RINGERT LAW CHARTERED
PO BOX 2773
BOISE ID 83701

Priority Date: May 10, 1965

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/01	to 10/31	8.00 CFS
			8.00 CFS

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L4 (SESWSW) Sec. 22 Twp 05S Rge 04E ELMORE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
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

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within 5 years of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. 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.
4. 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.
5. 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 rights having no subordinated early or late irrigation use and a priority date earlier than 7/31/2012.

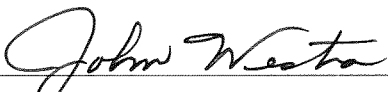
WATER RIGHT NO. 2-10300B
As Modified by Transfer No. 78075

CONDITIONS OF APPROVAL

6. 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.
7. 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.
8. The following rights are diverted through points of diversion described above: 2-2220, 2-2221, 2-2222, 2-2409, 2-7040, 2-7396, 2-10471, 2-10472, 2-10300A and 2-10300B.

This water right 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.

Dated this 16th day of October, 20 12



John Westra, Western Regional Manager

WATER RIGHT NO. 2-10300A
As Modified by Transfer No. 78075

In accordance with the approval of Transfer No. 78075, Water Right No. 2-10300A is now described as follows.

Right Holder: COTTONWOOD MUTUAL CANAL CO
C/O RINGERT LAW CHARTERED
PO BOX 2773
BOISE ID 83701

Priority Date: February 25, 1963

Source: SNAKE RIVER

Tributary: 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	1,339.0 AF
			8.00 CFS	1,339.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L4 (SESWSW) Sec. 22 Twp 05S Rge 04E ELMORE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
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

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within 5 years of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. 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.
4. 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.
5. 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 rights having no subordinated early or late irrigation use and a priority date earlier than 7/31/2012.

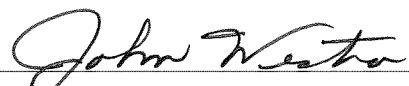
WATER RIGHT NO. 2-10300A
As Modified by Transfer No. 78075

CONDITIONS OF APPROVAL

6. 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.
7. 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.
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This water right 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.

Dated this 16th day of October, 20 12



John Westra, Western Regional Manager



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 16, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

J R SIMPLOT CO
PO BOX 27
BOISE ID 83707

COTTONWOOD MUTUAL CANAL CO
C/O RINGERT LAW CHARTERED
PO BOX 2773
BOISE ID 83701

RE: Transfer No.: 78075
Water Right No(s): 2-10300B 2-10300A

Transfer Approval Notice

Dear Water Right Holder:

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 homepage 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.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "John Westra".

for
John Westra

Western Regional Manager

Enclosure(s)

cc: RINGERT CLARK CHARTERED

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 78075
WATER RIGHTS NOS. 2-10300B 2-10300A

J R SIMPLOT CO
ATTN: TERRY T UHLING
PO BOX 27
BOISE ID 83707

RINGERT CLARK CHARTERED
C/O DANIEL V STEENSON
PO BOX 2773
BOISE ID 83701-2773

A handwritten signature in cursive script, appearing to read "Mandi Pearson", is written over a horizontal line.

Mandi Pearson
Office Specialist II

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.

AFFIDAVIT OF PUBLICATION

County of Elmore
State of Idaho } ss.

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

Mountain Home News

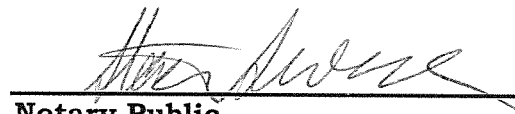
A weekly newspaper of general circulation,
published once a week, in Mountain Home,
Idaho, that the notice attached hereto which is
a part of publication thereof; was published in
said newspaper for 2 consecutive weeks,
the first publication having been made on the
19th day of Sept, 2012, and the last
publication having been made on the
26th day of Sept, 2012; 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 26th day
of Sept, 2012.



Notary Public

Residing in Mountain Home, Elmore County,
Idaho.

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

PROPOSED CHANGE OF WATER RIGHTS

J.R. Simplot Company of PO Box 27, Boise, ID 83707 filed Application No. 78075 to transfer two rights with 1963 and 1965 priority dates from the Snake River totaling 8.0 cfs. The rights will be purchased from Cottonwood Mutual Canal Co. after the transfer is finalized. The purpose of the transfer is to change the point of diversion and place of use. Water will be moved to a place of use approximately 7 miles southwest of the Mountain Home Air Force Base.

For additional information concerning the property location, please 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 Sec 42-222, Idaho Code. Any protest against the proposed change must be filed with the Director, IDWR Western Region, 2735 Airport Way, Boise ID 83705-5082 together with a protest fee of \$25.00 for each application on or before October 9, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
First Publication: September 19, 2012
Last Publication: September 26, 2012

OK NP
10-2-12

RECEIVED

OCT 01 2012

WATER RESOURCES
WESTERN REGION

