

MEMORANDUM

To: Water Right File No(s). 35-7169, 35-7373 and 35-10422
From: Monica Van Bussum
Date: February 25, 2011
Re: Review of Application to Lease a Water Right to the State Water Supply Bank

PURPOSE/NARRATIVE: On March 23, 2009, the Department received applications to put parts of these rights into the Bank through 2009. Subsequent correspondence with Simplot indicates they want a five-year lease.

35-10422 is an enlargement of 35-7169 and 35-7373, so I will spend some time showing calculations of leased amounts. The lease was to put 48.2 acres under the rights into the Bank. The lease application included a calculation sheet showing what Simplot anticipated would be the rates, volumes and acres associated with each right. My calculations were somewhat different and are described below.

35-7169

Acreage

$314 \text{ acres (acres authorized under 35 - 7169)} \div 437 \text{ acres (the total PPU)} = 71.9\%$
Therefore, 71.9% of the leased acres should come from 35-7169.
 $71.9\% \text{ of } 48.2 \text{ acres} = 34.7 \text{ acres}$

Volume

$1748 \text{ AFA (volume limit from the water right)} \div 437 \text{ acres} = 4 \text{ AFA}$
Thus, 4 AFA must be the field headgate volume used to calculate annual volume.
 $4 \text{ AFA} * 34.7 \text{ ac} = 138.8 \text{ AF}$

Diversion rate

35-10422 because of its very nature as an enlargement, was not for additional diversion rate. However, the rate under 35-7169 and 35-7373 must be accounted for to allow the most flexibility of the rights in the event of curtailment.

35-7169 authorizes 6.00 cfs for 314 acres. 6 cfs divided by 314 acres equals 0.019 cfs/ac. 0.019 cfs per acre times 34.7 acres equals 0.66 cfs.

35-7373

Acreage

$91 \text{ acres (the amount authorized under 35 - 7373)} \div 437 \text{ ac} = 20.8\%$
20.8% of 48.2 acres equals 10.0 acres.

Volume

4 AFA multiplied by 10.0 acres equals 40.0 AF.

Diversion rate

Diversion rate is calculated the same as 35-7169. Dividing 1.82 cfs by 91 acres gives a duty of 0.02 cfs per acre. Multiplying 0.02 cfs/ac by 10.0 ac equals 0.20 cfs.

35-10422

Acreage

$32 \text{ acres (amount authorized under 35 - 10422)} \div 437 \text{ ac} = 7.3\%$
7.3% of 48.2 acres is 3.5 acres.

Volume

4 AFA multiplied by 3.5 acres equals 14.0 AF.

Diversion rate

35-10422 did not authorize any additional diversion rate, so technically this is a zero. However, we need a placeholder for the diversion rate because, legitimately, some water is being used on those acres. In this case, we divide the diversion rate listed for 35-10422 (0.47 cfs) by the number of acres authorized (32 ac), which gives us 0.01 cfs.

All three rights will be limited to the total diversion rate on the lease from 35-7169 and 35-7373, which is 0.71 cfs.

AUTHORITY TO FILE: The applications were signed by Terry T. Uhling, Senior Vice President, Secretary and General Counsel for J.R. Simplot Co.

WATER RIGHT VALIDITY: These water rights have not been used for a considerable period of time and were partially decreed in 2001, marking 8 years between partial decree and Bank application filing. However, the water rights have been subject to the Surface Water Coalition Call. While they were not officially recognized by the Department as part of the mitigation plan, in consultation with Chris Bromley of the Attorney General's office, we decided the proceedings themselves protected the water rights from forfeiture.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is apparent from 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 leases appear to be consistent with conservation of water resources in Idaho. The applicant/owner has been operating under an approved permit and a right licensed with the State of Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS:

None.