

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

RECEIVED
JUN 01 2005
Department of Water Resources

**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

Post office address PO Box 27, Boise, ID 83707

1. DESCRIPTION OF WATER RIGHT.

Right evidenced by:

a. Decree No. _____ Decreed to _____
(Name)

in case of _____ vs _____

dated _____ in _____ county of _____
(Name of court)

b. License No. 61-07170 issued by the Idaho Department of Water
Resources.

c. Permit No. _____ issued by the Idaho Department of Water
Resources.

2. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE: (If the entire right is for sale or lease,
show "all" on line a. below and skip the remainder of part 2.)

a. Amount of water under right: 7.0 cubic feet per second &/or
60.0 acre feet per annum

b. Point of Diversion: SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 31 Township 4S Range
4E, B.M. in Elmore County.

Additional points See Remarks for additional points of diversion

c. Place of use:

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4S	4E	31															39	40	79
5S	4E	4										40							40
		5						38	40	35	39	40	39	40	40	37	40	39	427
		6	39	40	40	40									40	40	40	40	319
		7	40			40													80
		8	40	21			40	40	40	40									221

If the right is for irrigation, show the number of acres for the part of the right to be put into the bank.

Total number of acres 1,166

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

- a. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of the change of ownership form as required by Section 42-248 or 42-1409(6), Idaho Code, together with required documentation.

Please see the attached copy of the Warranty Deed recorded in the real property records of Elmore County on February 12, 1990 as instrument no. 257482

- b. Describe the frequency of water use under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years).

This water right was included in IDWR Transfer no. 70653 which was approved August 7, 2003. During 2003 and 2004 this water right was not used to irrigate the place of use.

- c. If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right..

Not Applicable

- d. Describe any other rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source? If so, describe.

During the term of this lease the place of use described by this water right will not be irrigated.
Water rights 61-12039, 61-02165, 61-02162 and 61-02163 are also appurtenant to the place of
Use

- e. If the right is a permit, describe the work accomplished toward developing the right.

- f. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

4. REMARKS:

Additional Points of Diversion:

T.5S R. 4E Section 4: NW $\frac{1}{4}$ SW $\frac{1}{4}$,

T.5S R. 4E Section 5: NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ (2) SE $\frac{1}{4}$ NW $\frac{1}{4}$ (2)

5. SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For sale

X For lease for a period from Indefinite to _____
(Day, month, year) (Day, month, year)

(The lease period may be shown as "indefinite", if the total duration of lease is unknown); or

_____ As a gift to the state of Idaho.

2. Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as 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 of the right may not use the right even if the right is not Rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water 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.

5/27/05
Date

J.R. SIMPLOT COMPANY
By: [Signature]
Signature Terry P. Uhling, Senior Vice President
Secretary & General Counsel

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

257482

Test of

GUARANTY TITLE, INC.

Time 2:53 P. M.

Date February 12, 1990

Book _____ of _____

Page _____

RAMONA REYNOLDS

By Merle L. Becker

Deputy

Fee \$9.00

WARRANTY DEED

GRANTOR, CARL E. NICHOLSON and BLANCHE NICHOLSON, husband and wife, of Meridian, County of Ada, State of Idaho, for a good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto J.R. SIMPLOT COMPANY, whose current address is 999 Main Street, Suite 1300, County of Ada, State of Idaho as GRANTEE, and to grantee's heirs and assigns forever, all of the following described real estate located in County of Elmore, State of Idaho:

TRACT I

TOWNSHIP 4 SOUTH, RANGE 4 EAST, BOISE MERIDIAN, ELMORE COUNTY, IDAHO

SECTION 31: S $\frac{1}{2}$ SE $\frac{1}{2}$

TOWNSHIP 5 SOUTH, RANGE 4 EAST, BOISE MERIDIAN, ELMORE COUNTY, IDAHO

SECTION 4: NW $\frac{1}{4}$ SW $\frac{1}{4}$ SECTION 5: E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$
NW $\frac{1}{4}$ SW $\frac{1}{4}$ AND LOT 4

SECTION 6: LOTS 1 AND 2

TRACT II

TOWNSHIP 5 SOUTH, RANGE 4 EAST, BOISE MERIDIAN, ELMORE COUNTY, IDAHO

SECTION 6: S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SECTION 7: E $\frac{1}{2}$ NE $\frac{1}{4}$ SECTION 8: N $\frac{1}{2}$

TOGETHER with all improvements, water, water rights, ditches, ditch rights, easements, hereditaments and appurtenances, specifically including but not limited to all mineral rights, hydrocarbon rights, geothermal rights, grazing rights, water rights, and any and all additional rights SUBJECT TO reservations of mineral rights in the U.S. Government's patents on the property.

Grantors, for themselves, their heirs and assigns do hereby covenant, warranty and shall defend the quiet and peaceable possession of said premises by the grantee, its successors, heirs and assigns forever against the lawful claims of all persons.

Thomas T. Nicholson and Carl V. Nicholson are executing this document as well in order to confirm that all water rights appurtenant to the premises are transferred to the Grantee.

In construing this deed, and where the context so requires, the singular includes the plural and the masculine, the feminine and the neuter.

IN WITNESS WHEREOF, Grantors have hereunto subscribed their name to this instrument this 8 day of February, 1990.

Carl E. Nicholson
Carl E. Nicholson

Blanche Nicholson
Blanche Nicholson

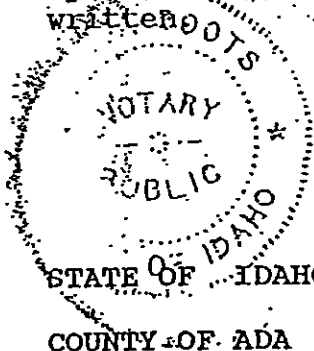
Thomas T. Nicholson
Thomas T. Nicholson

Carl V. Nicholson
Carl V. Nicholson

STATE OF IDAHO.)
) ss:
COUNTY OF ADA)

On this 8 day of February, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared CARL E. NICHOLSON and BLANCHE NICHOLSON, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

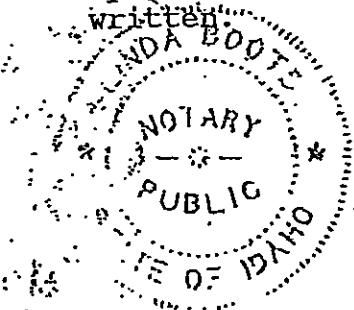


Linda K. Boots
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 5/31/95

STATE OF IDAHO)
COUNTY OF ADA) ss:

On this 8 day of February, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared THOMAS T. NICHOLSON, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

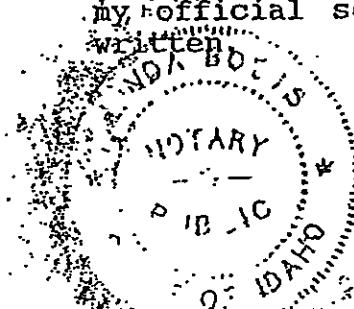


Linda K. Boots
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 5/31/95

STATE OF IDAHO)
COUNTY OF ADA) ss:

On this 8 day of February, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared CARL V. NICHOLSON, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Linda K. Boots
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 5/31/95