

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 66770

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. 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>Acres</u>	<u>Total</u>	<u>Source</u>
29-2020	AJC/License	08/08/1904	3 cfs	N/A			BAPTISTE SPRING
29-2225	AJC/License	03/10/1920	3.5 cfs	N/A			BAPTISTE SPRING

Purpose of Transfer (Changes Proposed)

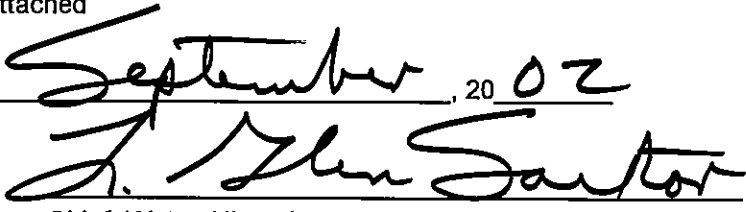
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
29-2020	NO	NO	YES	YES	YES	YES
29-2225	NO	NO	YES	YES	YES	YES

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>
29-2020	29-2020	3 cfs	526.9 af	N/A			N/A	N/A	N/A	N/A
29-2225	29-2225	3.5 cfs	526.9 af	N/A			N/A	N/A	N/A	N/A
TOTALS		6.5 cfs	526.9 af				N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 29th day of September, 2002


Chief, Water Allocation Bureau

MICROFILMED
OCT 04 2002

WATER RIGHT NO. 29-2020
As Modified by Transfer No. 66770

In accordance with the approval of Transfer No. 66770, Water Right No. 29-2020 is now described as follows.

Right Holder: JR SIMPLOT CO
 PO BOX 27
 BOISE ID 83707

Priority Date: August 08, 1904

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
INDUSTRIAL	01/01	to 12/31	3.00 CFS	526.9 AF
			3.00 CFS	526.9 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NESW	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	NESW	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SESW	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SESW	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SESW	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County

PLACE OF USE: INDUSTRIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	34E	7																	X

CONDITIONS OF APPROVAL

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
3. Use of water under this approval shall comply with applicable water quality standards of the Department of Environmental Quality.
4. Diversion of ground water is limited to those times water is available for diversion under this right and priority from Batiste Springs.

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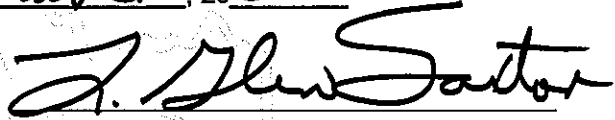
WATER RIGHT NO. 29-2020
As Modified by Transfer No. 66770

CONDITIONS OF APPROVAL

5. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
6. The total instantaneous diversion of water from all points of diversion under Rights 29-2020 and 29-2225 shall not exceed 6.50 cfs, nor total combined annual diversion volume of 526.9 af and a total consumptive use volume of 380.8 af..
7. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

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 24th day of September, 2002


Chief, Water Allocation Bureau

MICROFILMED
OCT 04 2002

WATER RIGHT NO. 29-2225
As Modified by Transfer No. 66770

In accordance with the approval of Transfer No. 66770, Water Right No. 29-2225 is now described as follows.

Right Holder: JR SIMPLOT CO
 PO BOX 27
 BOISE ID 83707

Priority Date: March 10, 1920

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
INDUSTRIAL	01/01	to 12/31	3.50 CFS	526.9 AF
			3.50 CFS	526.9 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NESW	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	NESW	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SESW	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SESW	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SESW	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County
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GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County
GROUND WATER	SWSE	Sec. 7	Twp 06S	Rge 34E	POWER County

PLACE OF USE: INDUSTRIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	34E	7																	X

CONDITIONS OF APPROVAL

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
3. Use of water under this approval shall comply with applicable water quality standards of the Department of Environmental Quality.
4. Diversion of ground water is limited to those times water is available for diversion under this right and priority from Batiste Springs.

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OCT 04 2002

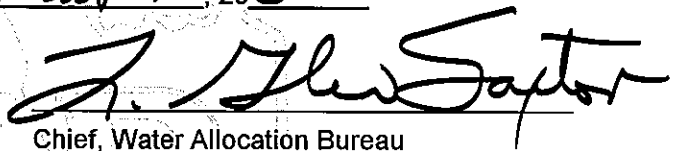
WATER RIGHT NO. 29-2225
As Modified by Transfer No. 66770

CONDITIONS OF APPROVAL

5. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
6. The total instantaneous diversion of water from all points of diversion under Rights 29-2020 and 29-2225 shall not exceed 6.50 cfs, nor total combined annual diversion volume of 526.9 af and a total consumptive use volume of 380.8 af..
7. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

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 24th day of September, 2002


Chief, Water Allocation Bureau

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OCT 04 2002

RECEIVED

JAN 15 1999

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Originally Filed June 10, 1998

Amended November 16, 1998

Department of Water Resources

Name of applicant J.R. Simplot Company Phone 208-336-2110

Post Office address P.O. Box 27 Boise, ID 83707

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes To change the place of use and all points of
diversion to water right nos. 29-02020 and 29-02225.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

- | 1. Right Number | Priority | Amount
(cfs/ac-ft) | Nature
of Use | Period of Use |
|---|-------------------|-----------------------|-------------------|--|
| <u>29-02020</u> | <u>8-15-1904</u> | <u>3.0 c.f.s.</u> | <u>Industrial</u> | <u>1/1</u> to <u>12/31</u> |
| <u>29-02225</u> | <u>3-10-1920</u> | <u>3.5 c.f.s.</u> | <u>Industrial</u> | <u>1/1</u> to <u>12/31</u> |
| <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> to <u> </u> |
| <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> to <u> </u> |
| 2. Total amount of water being transferred <u>6.50</u> cubic feet per second and/or <u> </u> acre-feet per annum | | | | |
| 3. Source of water <u>Groundwater</u> tributary to <u> </u> | | | | |
| 4. Point(s) of Diversion: <u>See Exhibit A</u> | | | | |

[illegible]

5. Lands irrigated or place of use:

[illegible]

Total acres _____

5349/66770

PART 1

6. General Information:

a. Description of diversion system 13 Wells, pumps, pipelines

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

N/A

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19_____.

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06. 14 2006

Exhibit A

ART 1 B. Description of Rights or Portion Thereof, After the Requested Change

Points of Diversion:

ot	¼	¼	Sec.	Twp.	Rng.	County	Local name for diversion
	NE	SW	7	6S	34E	Power	#5
	NE	SW	7	6S	34E	Power	#7
	SE	SW	7	6S	34E	Power	#4
	SE	SW	7	6S	34E	Power	#6
	SE	SW	7	6S	34E	Power	#336
	SW	SE	7	6S	34E	Power	#344
	SW	SE	7	6S	34E	Power	#339
	SW	SE	7	6S	34E	Power	#E-1
	SW	SE	7	6S	34E	Power	#E-2
	SW	SE	7	6S	34E	Power	#E-3
	SW	SE	7	6S	34E	Power	#E-4
	SW	SE	7	6S	34E	Power	#E-5
	SW	SE	7	6S	34E	Power	#E-6

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OCT 04 2002

P/Ds

T5349

REMARKS

Points of Diversion: This transfer will add the existing points of diversion that are used to operate Simplot's manufacturing complex near Pocatello, Idaho, to the Batise Springs water rights formerly owned by the Union Pacific Railroad (Simplot's well nos. 4, 5, 6, 7 to be added to water right nos. 29-02020, 2-02225, and ~~29-04334~~). In addition, 9 new wells planned for construction will also be added to these water rights (Well nos. 336, 339, 344, E-1, E-2, E-3, E-4, E-5, E-6).

Place of Use: This transfer will change the industrial places of use identified under water right nos. 29-02020 and 29-02225 to Simplot's manufacturing complex.

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OCT 04 2002

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 29-02020

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
COMMERCIAL	to	3.00 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
SPRINGS	PORTNEUF RIVER

Priority: 08/08/1904

LOCATION OF POINT(S) OF DIVERSION: SWNE , Sec. 7, Township 06S, Range 34E
POWER County

PLACE OF USE: See Remarks

CONDITIONS/REMARKS:

1. P/U IS RAILROAD YARDS AT POCATELLO.

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OCT 04 2002

PART 2

TRANS NO. 5349

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 29-02225

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
COMMERCIAL	to	3.50 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
BATISE SPRINGS	PORTNEUF RIVER

Priority: 03/10/1920

LOCATION OF POINT(S) OF DIVERSION: SWNE , Sec. 7, Township 06S, Range 34E
POWER County

PLACE OF USE: See Remarks

CONDITIONS/REMARKS:

1. P/U OREGON SHORTLINE RAILROAD CO. POCA TELLO.

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OCT 04 2002

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

A large grid for drawing a map, with a circular stamp on the left and a diagonal stamp across the center.

Circular stamp: STATE OF IDAHO, AGRICULTURE, DEPARTMENT OF WATER RESOURCES, WATER RIGHT

Diagonal stamp: (SEE ATTACHED MAP)

Bottom stamp: MICROFILMED, OCT 04 2002

SCALE: 2 inches equal 1 mile. Draw plan in ink.

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

There will be no impact on any other water uses after the proposed change is complete.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

By: J.R. Simplot Company James D. Crawford, Vice
 (Signature of Applicant) President & Controller
 Subscribed and sworn to before me this 16th day of November, 1998.
Kelline Bond
 (Notary Public)
 My commission expires 10-13-04

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments
 Received by AWT Date 11-18-98 Protest filed by _____
 Prelim. check by _____ Fee \$100.00 _____
 Receipted by AWT #E024627 Date 11-18-98 _____
 Published in Power Co. Press Copies of protest forwarded by _____
 Pub. dates Dec 2, & 9th, 1998 Hearing held by _____ Date _____
 Watermaster recommendation requested on _____ Recommended for ☒ approval ☐ denial
 _____ rec'd. _____ by RR
 Copy of transfer sent to lien holder _____

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OCT 04 2002

J. R. SIMPLOT COMPANY
List of Officers
as of
June 3, 1997

President 03-1-94	Stephen A. Beebe	999 Main Street Suite 1300 Boise, ID 83702
Sr. Vice-President 02-01-94	C. Larry Hinderager	4122 Yellowstone Pocatello, ID 83202
Sr. Vice-President 01-16-97	James R. Munyon	6360 S. Federal Way Boise, ID 83706
Sr. Vice-President 06-30-97	Dennis R. Mogensen	999 Main Street Suite 1300 Boise, ID 83702
Vice-President 10-06-69	Don J. Simplot	999 Main Street Suite 1300 Boise, ID 83702
Treasurer 01-10-96	Thomas J. Sorge	999 Main Street Suite 1300 Boise, ID 83702
Vice President and Secretary 10-06-75	Ronald N. Graves	999 Main Street Suite 1300 Boise, ID 83702
Controller 01-16-97	James D. Crawford	999 Main Street Suite 1300 Boise, ID 83702

E1436

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OCT 04 2002

County: Oneida
 Stream: Springs
 Amount: 3 sec.ft.
 Use: Supplying tanks, etc.
 Priority: August 8, 1904.

STATE OF IDAHO

Water License No. 771

WHEREAS, On the 8th day of August, A. D. 1904,

OREGON SHORT LINE RAILROAD COMPANY

of Salt Lake City, County of Salt Lake, State of Utah, duly made application (No. 1091) to me for a permit to use three (3) cubic feet per second of the waters of Springs on Portneuf River

County of Oneida, State of Idaho, for supplying tanks and other railroad purposes, and,

WHEREAS, On the 15th day of August, A. D. 1904, Permit No. 771 was issued to said applicant for the diversion of said water and providing for the completion of the works of diversion therein described on or before the 15th day of August, A. D. 1909, and for the application to beneficial use of said water on or before the 15th day of August, A. D. 1913, and,

WHEREAS, On the 7th day of June, A. D. 1909, Oregon Short Line Railroad Company,

the holder of said permit, duly made proof of the completion of adequate works for the diversion of three (3) cubic feet per second of said waters, as evidenced by my Certificate No. 771, dated September 15, 1909, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use three (3) cubic feet per second of said water, with date of priority of August 8, 1904, and

WHEREAS, On the 15th day of August, A. D. 1913, Oregon Short Line Railroad Company,

the holder of said permit, duly made proof of the application to beneficial use of three (3) cubic feet per second of said water:

NOW, THEREFORE, By virtue of authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to

Oregon Short Line Railroad Company,

of Salt Lake City, County of Salt Lake, State of Utah, the holder and owner of said Permit No. 771, a perpetual right, dating from August 8, 1904, to the use of three (3) cubic feet per second of the waters of Springs on Portneuf river,

in the County of Oneida and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted in the SW $\frac{1}{4}$ of NE $\frac{1}{4}$, Sec. 7, T. 6 S., R. 34 E.B.M.,

and conducted to ~~and upon~~ the Oregon Short Line railroad yards at the town of Pocatello, Bannock County, Idaho,

purposes, subject, for the purpose of supplying tanks and other general railroad purposes, however, to the laws of the State of Idaho, applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Boise, Idaho, this 31st day of October, A. D., nineteen hundred and thirteen.

F. P. KING,

State Engineer.

(Seal)

29 2020

Record of Application

29-2020

49525 GAB STA

1. Name of applicant Oregon Short Line Railroad Company
Postoffice address: P. O. Deseret News Building, Salt Lake City, Utah
County _____

I. If applicant is a corporation give

(a) Date and place of incorporation February 9th, 1897
(b) The amount of capital stock \$60,000,000
(c) The amount paid in \$27,460,100
(d) The names and addresses of directors Oliver Ames, Easton, Mass.; Horace E. Gurt, Omaha, Neb.; Samuel Cass, Boston, Mass.; Henry D. Cornish, New York City; Edwin Gould, New York City; Geo. J. Gould, Lakewood, N.J.; E. H. Harriman, Arden, N.Y.; James H. Hyde, O.H. Kahn, Monistown, N.J.; Ferdinand M. Lane, Cambridge, Mass.; Oliver H. Mink, Brookline, Mass.; H. S. Mc Cormick, Salt Lake City, Utah; Winslow S. Pierce, New York City; W. V. S. Thorne, New York City; Paul M. Warburg

II. The financial resources of the applicant are:

(a) Cash on hand _____
(b) Treasury stock _____
(c) Bonds to be issued None
(d) Other resources Railroad property, etc.

2. The quantity of water claimed is three (3) cubic feet, per second
3. Source of water supply Springs on Portneuf River, and Portneuf River, Blaine County, Idaho
4. Location of point of diversion S.W. 1/4 of N.E. 1/4 Sec 7, T. 6 S., R. 34 E., Boise Meridian

5. To be used for: Supply for Oregon Short Line R.R. Co. Locomotives, Yards, Shops, Offices, Hotel and Tenements.
~~Irrigation and domestic use:~~ _____
(a) ~~Number of acres to be irrigated~~ _____ acres
(b) ~~In the following legal subdivisions:~~ town of Pocatello

II. Mining, power, manufacturing or transportation purposes:

(a) To be used for Supply for O.S.L.R.R. Co. Locomotives, Yards, Shops, Offices, Hotel, and Tenements
(b) Amount, of power to be generated one thousand (1000) horse power
(c) At what point Pocatello, Idaho
(d) If water is to be returned to stream, ("yes" or "no") Yes
(e) If "yes" at what point on east line of Sec 21, T. 6 S., R. 34 E. B.M.

6. Estimated cost of works One hundred and ten thousand dollars (\$110,000.00)

7. Description of works for diversion:

I. Kind of works (reservoir, dam, ditch, flume, pipes or otherwise) Reservoirs; and 10 inch pipe line from Springs and river, to be pumped by steam or electric pumps, to pressure reservoirs, and shops and railroad yards at the town of Pocatello.

II. Dimensions of works:

(a) Height of dam two (2) feet, length of dam at top ninety (90) feet, length of dam at bottom ninety (90) feet, material used in construction (wood, earth, stone or concrete) Stone

the Public Waters of the

APPROVAL OF STATE ENGINEER.

The number of this permit is 771
Date of first receipt of application 11:00 a.m. August 8, 1904
Returned to applicant for correction 190
Corrected application received 190
Recorded in Book 2 Page 771
Approved August 15, 1904

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho and hereby grant the same, subject to the following limitations and conditions:

One-fifth of the work above specified to be completed on or before February 15, 1907

The whole of said work to be completed on or before August 15, 1909

The time for the proof of beneficial use of water appropriated in accordance herewith, to extend to August 15, 1913

Witness my hand this fifteenth day of August 1904

Wayne Darlington
State Engineer.

Blank notice for proof of completion mailed applicant May 1, 1909.

notice of proof of completion received June 7-1909, fixing August 14-1909, as date and Pocatello as place of proof.

Publication notice mailed The Gate City news at Pocatello June 24-1909.

Deposition blanks mailed J. P. Condon, Supervising Engineer, June 24-1909.

G. H. Trout authorized June 24-09, to make examination of works.

His report received July 12-1909.

Depositions and affidavit of publication received August 17-1909.

Fees received September 7-1909

Certificate issued September-15-1909.

Permit No. 771

Certificate of Completion of Works.

To all Whom it may concern:

This is to certify that The Oregon Short Line Railroad Company, of Salt Lake City, County of Salt Lake and State of Utah, the holder

r. Permit to Appropriate

772

WING CO., BOISE, IDAHO

8. Time required for the completion of the construction of such work is five years. (The time must in no case exceed five years after date of approval of application.)
9. Time required for the complete application of the water to the proposed use is four years. (The time must in no case exceed four years after the date set for the completion of works as defined in Section 8.)

Remarks:

the Public Waters of the

APPROVAL OF STATE ENGINEER.

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Date of first receipt of application 11:00 a.m. August 8, 1904
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Publication notice mailed The Gate City news at Pocatello June 24-1909.

Deposition blanks mailed J. P. Condon, Supervising Engineer, June 24-1909.

G. H. Trout authorized June 24-09, to make examination of works.

His report received July 12-1909.

Depositions and affidavit of publication received August 17-1909.

Fees received September 7-1909

Certificate issued September-15-1909.

Permit no. 771

Certificate of Completion of Works.

To all Whom it may concern:

This is to certify that The Oregon Short Line Railroad Company, of Salt Lake City, County of Salt Lake and State of Utah, the holder

Record of Application

49525 GAB STA

1. Name of applicant George O. Shedd

Postoffice address: P. O. Pine

County Elmore

CANCELLED pursuant to Sec. 5594,
Compiled Statutes of Idaho, by
order of Commissioner of Reclamation
dated JAN 20 1922

~~I. If applicant is a corporation give~~

- ~~(a) Date and place of incorporation~~
- ~~(b) The amount of capital stock~~
- ~~(c) The amount paid in~~
- ~~(d) The names and addresses of directors~~

II. The financial resources of the applicant are:

- (a) Cash on hand
- (b) Treasury stock
- (c) Bonds to be issued
- (d) Other resources

2. The quantity of water claimed is three cubic feet per second

3. Source of water supply unnamed creek flowing as per plat through Sec. 8, T. 2 N., R. 9 E., Elmore County

4. Location of point of diversion near the north line, just below forks of SE¹/₄ of said Sec. 8, in NW¹/₄ thereof

5. To be used for:

I. Irrigation and domestic use:

(a) Number of acres to be irrigated 150 acres

(b) In the following legal subdivisions Southeast 1/4 of Section (8) eight, Township 2, North Range 9 E. B.M.

~~II. Mining, power, manufacturing or transportation purposes:~~

- ~~(a) To be used for~~
- ~~(b) Amount of power to be generated horse power~~
- ~~(c) At what point~~
- ~~(d) If water is to be returned to stream, ("yes" or "no")~~
- ~~(e) If "yes" at what point~~

6. Estimated cost of works Not to exceed \$800

7. Description of works for diversion:

I. Kind of works Small dam ~~(reservoir, dam, ditch, flume, pipes or otherwise)~~ 5 or 6 ft. high and 2 ditches, one from each side of stream at point of diversion

II. Dimensions of works:

- (a) Height of dam 5 or 6 feet, length of dam at top 20 ft. feet
length of dam at bottom 5 feet, material used in construction
(~~wood, earth, stone or concrete~~)

State of Idaho. No. 1091.

permit, that said works are adequate for diverting and conveying to the place of intended use 3 second feet of the waters of Spring on Portneuf River, that the point of diversion of said waters is at a point in the southwest quarter of northeast quarter of section 7, township 6 south, range 34 east of the Boise meridian, and that the proposed place of use of said water is at the Oregon Short Line Railroad Company's yards in the town of Pocatello, Idaho.

Witness my hand this 15th day of September.
A. D. 1909.

Jas. Stephenson, Jr.
State Engineer

Initial p- 1452

the Public Waters of the

APPROVAL OF STATE ENGINEER.

The number of this permit is 770

Date of first receipt of application 9 a.m. July 27, 1904

Returned to applicant for correction July 27, 1904

Corrected application received August 8, 1904

Recorded in Book 3 Page 770

Approved August 15, 1904

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho and hereby grant the same, subject to the following limitations and conditions:

One-fifth of the work above specified to be completed on or before August 15, 1906

The whole of said work to be completed on or before August 15, 1908

The time for the proof of beneficial use of water appropriated in accordance herewith, to extend to August 15, 1910

Witness my hand this fifteenth day of August, 1904

Wayne Darlington
State Engineer.

8. Time required for the completion of the construction of such work is five (5) years. (The time must in no case exceed five years after date of approval of application.)
9. Time required for the complete application of the water to the proposed use is nine (9) years. (The time must in no case exceed four years after the date set for the completion of works as defined in Section 8.)

Remarks:



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 26, 2002

J R SIMPLOT CO
PO BOX 27
BOISE ID 83707

RE: Transfer No.: 66770 - Water Rights 29-2020, 29-2225 - Transfer Approval Notice

Dear Water Right Holder(s):

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.

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 208-327-7940.

Sincerely,

for Jeff Peppersack, Manager
Water Rights Permits Section

JP:klt

Enclosure(s)

MICROFILMED

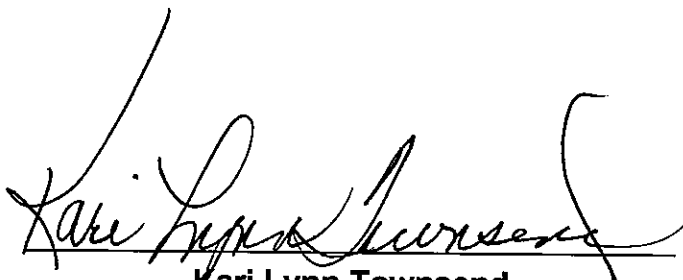
OCT 04 2002

CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2002 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 66770 - WATER RIGHTS 29-2020, 29-2225

**J R SIMPLOT CO
PO BOX 27
BOISE ID 83707**



**Kari Lynn Townsend
Secretary**

MICROFILMED

OCT 04 2002

EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER

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. 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 Idaho Water Resource Board (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).

MEMORANDUM

To: File 29-2020

From: Sharla

Date: September 24, 2002

Re: Volume

After thoroughly reviewing the documentation submitted by Vic Conrad, the following is a summary of total diversion volume, total consumptive volume and combined limitations that will be used in the transfer approval.

Historical Usage

Daily Diversion/Use Average	$520,538 \text{ gallons} \times 365 \text{ days} / 325,850 = 583.1 \text{ af}$
Daily Consumptive Use Average	$401,628 \text{ gallons} \times 365 \text{ days} / 325,850 = 449.9 \text{ af}$
Daily Use Estimated by UPRR	$470,396 \text{ gallons} \times 365 \text{ days} / 325,850 = \mathbf{526.9 \text{ af}^*}$

Current Usage

Highest Average Monthly Volume	$188,997,947 \text{ gallons} \times 12 \text{ months} / 325,850 = \mathbf{696 \text{ af}}$
Highest Average Monthly Consumptive Volume	$10,339,305 \text{ gallons} \times 12 \text{ months} / 325,850 = \mathbf{380.8 \text{ af}^{**}}$

*Total diversion volume limitation to be used in transfer approval

**Total consumptive volume limitation to be used in transfer approval

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OCT 04 2002

TRANSFER REVIEW SHEET

Trans # 66770

Date Reviewed 9/11/02

Right No(s). * 29-2020

Split? Y N Y N Y N Y N Y N

AREA OF CONCERN: No/Yes ESPA

PURPOSE OF TRANSFER FOR EACH RIGHT:

Change p/d

Change use period

Change p/u

Add p/d

Change nature of use

RightID's of From & To records correct? Y N (resolve with State Office personnel)

Check for Partial Decree issuance, etc. since time of application's entry

PROOF OF OWNERSHIP COMPLETE FOR OLD & NEW P/U Lien Holder Release

GROUNDWATER:

DRILLING PERMIT

All wells -046
DP upgrade req'd Y N (contact GW personnel)

WMD - North/East/West

≤ 0.24 cfs/5 acres - No MD

> 0.24 cfs/5 acres -067

WMD

≤ 0.24 cfs/5 acres - No MD

> 0.24 cfs/5 acres - 01M or 01Q

Supp irr (irr = only use) - 065-104

Supp irr (+ other uses) - 100-105

SURFACE WATER:

WD - R04 (WD#) WM comments rec'd

≤ 0.20 cfs/others - R02, 01P or No MD

> 0.20 cfs - R43

WD, SPRINGS/SINK, INACTIVE WD & REST OF STATE

≤ 0.24 cfs/5 acres - No MD

> 0.24 cfs/5 acres - 01M or 01Q

STANDARD SEASON N/A to (use X61 if extended season)

STANDARD VOLUME N/A af/ac

CONSUMPTIVE USE VOLUME af/ac

Total = 526.9 af

USES:

STORAGE - 18C-R02-01P-18B-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCKWATER - R37 (all BLM/USFS)
MINING - 054-106
FISH/PROP - 029(70'S only)-007-122-106
HEAT/COOL - R07 (injection well)
FIRE PROT. - 077
DAIRY - 082 (zoning if a concern)-106-WD8

USES:

POWER - 17H-17K (+uses)-025-106
MUNICIPAL
Restricted area - 022-075 RAFN - 007-109-X64
Irr., GW supp to SW - 102
DOMESTIC
Surface water - WB5 (Big Wood or Boise above Star Bridge)
- 27A (Payette River)
> 1 in restricted area - 070-071-075 (no parks/common areas, etc)
Irr use listed separate - WB5

MISC CONDITIONS/REMARKS:

T07 - 1 yr to develop
T08 - comply or rescind
T17 - measure all p/d's (used with WB4)
T18 - Special T17 & R43 combined - multiple pds in WD

X49 - measure p/d's (source chg'd to orig trib)
X51 - 2+ yrs to develop
X53 - Use ltd to orig. source availability
X54 - forfeited ac/rate (used rarely)
X55 - transfer shrinks total water to less ac)
X57 - no right-of-way
X58 - pending claim (statutory or AJ b/u claim)
X61 - extended irr season
X62 - replaces N11 and N13
X63 - replaces C12
WB4 - p/ds, cfs & afa (used with T17)
WD8 - land application of waste water
01Q - used instead of 01M when there's another meas. Cond (i.e. T17 & 01m)

Apply one:

T09 - on-going claim in SRBA*
T19 - replaces C18 and used on unchg'd portions in SRBA (Recomm. or PD)
*Edit condition to fit scenario if not ongoing in SRBA process

Protested - 020-X19
Water Quality - 106-R07

2020 = 46% of total rate, volume = 242.4 af
2225 = 54% " " " 264.5 af

OTHER CONDITIONS/REMARKS allow full vol. under ea. limit current volume w/ limit cons. cond

COMMENTS 470,396 gpd x 365/325,850 = 526.9 af/yr. 6.5 cfs x 365 x 1.98 = 4697.6 afa

Database files updated Approval form printed

Special Mailing Instructions (cc's, etc)

Final database update after approval * Comment to WR No(s). 29-2020/2225

9/23/02
SC

Curtis, Sharla

From: vconrad@simplot.com
Sent: Friday, June 28, 2002 9:55 AM
To: Scurtis@idwr.state.id.us
Subject: IDWR Transfer No. 66770 (Batise Springs).



Consumption
Estimate.xls

Sharla,

As you requested, attached are the only measurements I am aware of that were taken measuring inflow to the former place of use identified under license nos. 29-02020 and 29-02225, with outflow measured during the same period of time. As I described in earlier correspondence to the Department, the water uses and quantities varied widely at this location. You will note that the net average volume during any one month varies widely. The estimate of daily consumption provided in my letter dated January 31, 2002, to Jeff Peppersack of 470,396 gallons is far below the peak volume measured (June, 1993) and above the minimum volume (January, 1993). Given the wide range of uses and their experience with the system UP feels a 470,396 is a middle-of-the-road quantity.

At some point following the licensing for 29-02020 (October 31, 1913 licensing with a priority date of August 8, 1904) and 29-02225 (licensing September 15, 1930 with a priority date of March 10, 1920), the IDWR assigned a "Commercial Use" to these rights. I cannot find an explanation why a "Commercial Use" was assigned by the IDWR to these rights rather than "Industrial" or "Municipal" uses. The SRBA claims filed by the UP Railroad identify "Municipal" and "Industrial" uses for these rights. These claimed uses seem to be more consistent with the information contained in your license files.

I think it is significant to point out the question about the use designation since this could be used as an alternative method to establish the consumption associated with these licenses. For example, should an industrial use be the more appropriate use designation, the land application of discharge from an industrial use would fall within the IDWR's policy described in Norm Young's "Application Processing Memorandum No. 61" dated September 27, 1996.

We hope that with the attached information the transfer can be approved quickly.

<<Consumption Estimate.xls>>

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OCT 04 2002

IDWR Water Right Nos. 29-2220 and 29-2225.

Gould Street Flow Meter (inflow to UP Rail Operations)				UP Wastewater Treatment Plant Discharge			
Date		Number of days since previous meter reading	Average calculated use per day (gallons)		Monthly volume recorded (gallons)	Average calculated daily volume	Net Daily Consumed Average (gallons)
Meter Read	Meter Reading			Month			
*7/Feb/93	15,245,000	34	448,382.35	Jan-93	4,600,000	148,387	299,995.26
4-Mar-93	13,556,000	27	502,074.07	Feb-93	3,800,000	135,714	366,359.79
30-Mar-93	13,146,000	26	505,615.38	Mar-93	3,800,000	122,581	383,034.74
3-May-93	17,227,000	33	522,030.30	Apr-93	3,300,000	110,000	412,030.30
27-May-93	12,541,000	24	522,541.67	May-93	3,000,000	96,774	425,767.47
8-Jul-93	25,526,000	41	622,585.37	Jun-93	3,000,000	100,000	522,585.37

*The volume indicated for Feb. 7, 1993 includes the period beginning January 3, 1993 to February 7, 1993

520,538

583.1 af

Daily Net Volume Estimated by UP Railroad

401,628

449.9 af

470,396

526.9 af

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OCT 04 2002

CORPORATE HEADQUARTERS

January 31, 2002

RECEIVED

JAN 31 2002

Department of Water Resources

Delivery

Jeff Peppersack
State of Idaho
Department of Water Resources
1301 N. Orchard Street
Boise, Idaho 83706

Re: Transfer No. 66770, Water Right Nos. 29-2020 and 29-2225.

Dear Jeff:

In responding to your request for information relating to the amount of water consumed under these water rights I contacted a former employee of the Union Pacific Railroad ("UP") who is familiar with the water use at this location. UP's water was used in a wide-variety of activities such as stock watering in cattle yards, repair shops, a passenger depot, a large central steam plant, along with several operations supporting the UP operation but not owned by UP. Water was used for a broad range of industrial, commercial, municipal, livestock and irrigation purposes in support of UP's Pocatello complex.

A thorough description of the diversion, delivery and distribution system is contained in your files for these water rights. However, the consumed volume is not among the variables tracked by UP. An estimate of the consumed volume has been calculated using the discharge records for UP's industrial waste water treatment facility, an estimate of the quantity of the sanitary water treated by the City of Pocatello, and diversion records for the corresponding time period.

UP's industrial waste water treatment facility collected discharge from all non-sanitary uses, then treated the water to acceptable standards before discharging the water to the Portneuf River. These non-sanitary uses included all of the industrial, commercial, irrigation and stockwatering return flows. The City of Pocatello's treatment facility accepted the return flows arising from the municipal uses requiring sanitary treatment before discharge to the Portneuf. The sum of these two discharge streams is the total return flow from the UP Pocatello complex.

The total return flow was subtracted from the Batise Springs diversion records for the corresponding time period to arrive at estimate of the average consumption. Based upon these records, the UP consumed an average of approximately 470,396 gallons per day (1.44 acre feet per day) in connection with all of the various water uses under these rights.

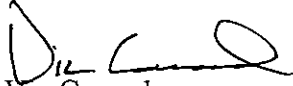
MICROFILMED

OCT 04 2002

Bringing Earth's Resources to Life

I hope this will assist you in completing the processing of this transfer. We look forward to seeing this transfer move forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vic Conrad', with a stylized flourish at the end.

Vic Conrad

Simplot Land and Development

MICROFILMED

OCT 04 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 3, 2002

VIC CONRAD
SIMPLOT LAND & DEVELOPMENT
PO BOX 27
BOISE ID 83707-0027

RE: Transfer No. 66770 – Water Rights 29-2020 & 29-2225

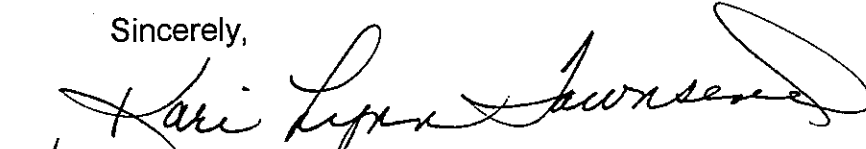
Dear Vic:

We acknowledge receipt of your letter of December 28, 2001 requesting an extension of the December 31, 2001 deadline to January 31, 2002.

Your request is accepted and the new deadline is January 31, 2002.

If you have any questions regarding this matter, please call me at 327-7940.

Sincerely,


for Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

MICROFILMED
OCT 04 2002



J.R. SIMPLOT COMPANY ONE CAPITAL CENTER 999 MAIN STREET SUITE 1300
P.O. BOX 27 BOISE, IDAHO 83707-0027 (208) 336-2110 FAX (208) 389-7515

CORPORATE HEADQUARTERS

RECEIVED

JAN - 2 2002

Department of Water Resources

December 28, 2001

Jeff Peppersack
State of Idaho
Department of Water Resources
1301 N. Orchard Street
Boise, Idaho 83706

Re: Transfer No. 66770, Water Right Nos. 29-2020 and 29-2225

Dear Jeff:

Representatives of the Union Pacific Railroad, the former owner of these water rights, are searching their records for the information you are requesting to continue processing this transfer application. I do not think I will have the information available on or before December 31, 2001.

Please extend the deadline for responding to your October 31, 2001 information request until January 31, 2002. This should provide sufficient time to allow Union Pacific to research their records.

Sincerely,

Vic Conrad
Simplot Land and Development

MICROFILMED

OCT 04 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 7, 2001

J R SIMPLOT CO
VIC CONRAD
P O BOX 27
BOISE ID 83707

Re: Transfer No. 66770 (old no. 5349) - WR Nos. 29-2020 and 29-2225

Dear Vic:

I have received your letter of November 30, 2001 requesting additional time to submit information related to the transfer referenced above. Proper documentation of the historical water use under the licensed water rights will provide the information necessary for an approval that will not enlarge the use under those licenses.

The Department will hold your application until December 31, 2001 to allow you time to provide additional information before taking any further action.

Please call if you have questions or additional needs related to this issue.

Sincerely,

Jeff Peppersack, Section Manger
Water Right Permits Section

JP:klt

MICROFILMED
OCT 04 2002



J.R. SIMPLOT COMPANY ONE CAPITAL CENTER 999 MAIN STREET SUITE 1300
P.O. BOX 27 BOISE, IDAHO 83707-0027 (208) 336-2110 FAX (208) 389-7515

RECEIVED

CORPORATE HEADQUARTERS

DEC - 3 2001

Department of Water Resources

November 30, 2001

Jeff Peppersack, Section Manager
Water Rights Permits Section
State of Idaho
Department of Water Resources
1301 North Orchard
Boise, ID 83706

Re: IDWR Transfer No. 66770 (IDWR Water Right Nos. 29-02020 and 29-02225).

Dear Jeff:

In response to your letter dated October 31, 2001, I am requesting an extension until December 31, 2001 to provide you with the additional information you requested.

It was my initial impression that the consumption relating to the licensed water uses are comparable to those associated with municipal uses. However, after further considering the licensed uses is it now my belief it is likely the consumption should be greater than municipal levels. I am contacting the previous water right owner in an attempt to verify the consumptive volumes.

It is not our goal to cover the entire annual water volume consumed in our Pocatello plant with the water rights under this transfer. We own other water rights that can adequately cover the consumptive volume that cannot be covered under these rights. However, I would appreciate you granting an extension until December 31 to allow more time to determine what portion of our consumption can be covered under this transfer.

Sincerely,

Vic Conrad
Land and Development

Enclosures

MICROFILMED
OCT 04 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 31, 2001

VIC CONRAD
J R SIMPLOT CO
P O BOX 27
BOISE ID 83707

Re: Transfer No. 66770 (old no. 5349) - WR Nos. 29-2020 and 29-2225

Dear ~~Mr. Conrad~~ Vic

As you know, the transfer referenced above is in the final stages of review at this office. As noted in previous correspondence from Pam Skaggs of this office, we need additional information regarding the historical use of water under the water rights proposed for transfer in order to complete the processing of the application.

The information we need is an estimate of the historical diversion volume and consumptive volume for the commercial uses associated with those water rights. Section 42-222, Idaho Code provides that a change can be approved if the change "... does not constitute an enlargement in use of the original right." Information in the water right files indicates that the historical use of water under the water rights was for filling tanks, radiators, rail car washing, and domestic type uses for shops and depot associated with the railroad yards at Pocatello. Those uses appear to be largely non-consumptive. Information that you have previously submitted for the proposed industrial uses indicates largely or fully consumptive uses associated with Simplot's Don plant near Pocatello. The Department cannot approve a change which would result in an enlargement of the diversion volume or consumptive volume utilized under the original rights.

If you believe that the water use will not be enlarged due to the proposed changes, please provide an estimate of the historical diversion volume and consumptive volume for the commercial uses associated with the referenced water rights within 30 days. Otherwise, we will proceed with an order denying the application. If you need additional time to gather information in support of your application, please let me know as soon as possible.

Sincerely,

Jeff Peppersack, Section Manger
Water Right Permits Section

JP:klt

MICROFILMED

OCT 04 2002

Skaggs, Pam

From: Conrad, Vic (Corporate) [vconrad@SIMPLOT.COM]
Sent: Friday, June 30, 2000 4:22 PM
To: 'Skaggs, Pam - IDWR'
Subject: IDWR Transfer No. 5349.



Monthly Water
Consumption Summ... <<Monthly Water Consumption Summary.xls>>

Pam,
Attached is the monthly water consumption for the period May, 1995 through May, 2000 measured at Simplot's Don Plant near Pocatello, Idaho. Please contact me should you need any additional information to continue processing the transfer. My phone number is 389-7359.

*Contacted Vic on 7-7-2000
He agreed to provide additional information
regarding original uses (days/hrs/primary use.)*

MICROFILMED
OCT 04 2002

J. R. Simplot Company Don Plant Well Water Usage Summary
IDWR Transfer No. 5349

	Monthly Volume Produced from New Points of Diversion under IDWR Transfer No. 5349	Monthly Volume Supplied from Other Sources	Total Monthly Supply	Monthly Volume Discharged from Plant for Treatment (land applied)	Total Monthly Volume Consumed	Monthly Consumed volume related to New Points of Diversion (percentage of Total Supply)	Monthly Consumed related to Other Sources (percentage of Total Supply)
	(Gallons)	(Gallons)	(Gallons)	(Gallons)	(Gallons)	(Gallons)	(Gallons)
Minimum							
5/1995 - 12/1995	112,928,247	0	112,928,247	0	112,928,247	112,928,247	0
1996	119,032,433	7,071,413	126,103,847	0	108,459,726	102,377,727	6,082,000
1997	128,862,184	7,656,563	136,518,748	8,242,081	116,154,456	109,640,010	6,514,446
1998	120,895,200	8,226,720	129,121,920	6,220,800	114,714,720	107,405,923	7,308,797
1999	110,329,920	7,683,840	118,389,600	4,551,840	104,232,960	97,137,030	7,095,930
1/2000 - 5/2000	174,364,485	8,419,317	183,090,935	17,695,928	158,177,973	150,638,921	7,539,052
5/1995 - 5/2000	110,329,920	0	112,928,247	0	104,232,960	101,834,700	2,398,260
Maximum							
5/1995 - 12/1995	184,711,935	11,277,986	195,111,416	17,897,941	181,554,967	171,878,048	9,676,919
1996	198,377,419	13,904,587	212,282,006	37,840,843	194,998,485	182,225,979	12,772,507
1997	181,467,950	12,109,364	192,987,634	26,471,157	173,638,785	163,274,059	10,364,725
1998	200,448,000	12,903,840	205,588,800	36,028,800	197,424,000	192,487,363	4,936,637
1999	203,248,800	11,603,981	210,686,400	23,760,000	196,856,640	189,907,255	6,949,385
1/2000 - 5/2000	206,898,496	11,792,162	218,690,658	31,035,949	194,367,862	183,887,226	10,480,637
5/1995 - 5/2000	215,609,296	13,904,587	218,690,658	37,840,843	197,424,000	194,642,286	2,781,714
Average							
	0						
5/1995 - 12/1995	166,643,132	6,620,072	173,263,204	9,964,665	163,298,539	157,059,199	6,239,340
1996	170,971,869	11,531,896	182,503,765	18,873,939	163,629,827	153,290,522	10,339,305
1997	159,697,379	10,010,609	169,707,989	15,080,850	154,627,138	145,506,107	9,121,031
1998	167,317,320	10,722,840	178,040,160	18,662,760	159,377,400	149,778,564	9,598,836
1999	178,692,100	9,807,782	188,499,882	13,390,874	175,109,008	165,997,963	9,111,046
1/2000 - 5/2000	188,997,947	10,078,908	199,076,855	25,350,223	173,726,632	164,931,161	8,795,471
5/1995 - 5/2000	170,463,587	9,971,027	180,434,614	16,369,992	164,064,622	154,998,220	9,066,402

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J. R. Simplot Company Don Plant Well Water Usage Summary
IDWR Transfer No. 5349

	Monthly Volume Produced from New Points of Diversion under IDWR Transfer No. 5349	Monthly Volume Supplied from Other Sources	Total Monthly Supply	Monthly Volume Discharged from Plant for Treatment (and applied)	Total Monthly Volume Consumed	Monthly Consumed volume related to New Points of Diversion (percentage of Total Supply)	Monthly Consumed related to Other Sources (percentage of Total Supply)
	(Gallons)	(Gallons)	(Gallons)	(Gallons)	(Gallons)	(Gallons)	(Gallons)
Minimum							
5/1995 - 12/1995	112,928,247	0	112,928,247	0	112,928,247	112,928,247	0
1996	119,032,433	7,071,413	126,103,847	0	108,459,726	102,377,727	6,082,000
1997	128,862,184	7,656,563	136,518,748	8,242,081	116,154,456	109,640,010	6,514,446
1998	120,895,200	8,226,720	129,121,920	6,220,800	114,714,720	107,405,923	7,308,797
1999	110,329,920	7,683,840	118,389,600	4,551,840	104,232,960	97,137,030	7,095,930
1/2000 - 5/2000	174,364,485	8,419,317	183,090,935	17,695,928	158,177,973	150,638,921	7,539,052
5/1995 - 5/2000	110,329,920	0	112,928,247	0	104,232,960	101,834,700	2,398,260
Maximum							
5/1995 - 12/1995	184,711,935	11,277,986	195,111,416	17,897,941	181,554,967	171,878,048	9,676,919
1996	198,377,419	13,904,587	212,282,006	37,840,843	194,998,485	182,225,979	12,772,507
1997	181,467,950	12,109,364	192,987,634	26,471,157	173,638,785	163,274,059	10,364,725
1998	200,448,000	12,903,840	205,588,800	36,028,800	197,424,000	192,487,363	4,936,637
1999	203,248,800	11,603,981	210,686,400	23,760,000	196,856,640	189,907,255	6,949,385
1/2000 - 5/2000	206,898,496	11,792,162	218,690,658	31,035,949	194,367,862	183,887,226	10,480,637
5/1995 - 5/2000	215,609,296	13,904,587	218,690,658	37,840,843	197,424,000	194,642,286	2,781,714
Average							
5/1995 - 12/1995	166,643,132	6,620,072	173,263,204	9,964,665	163,298,539	157,059,199	6,239,340
1996	170,971,869	11,531,896	182,503,765	18,873,939	163,629,827	153,290,522	10,339,305
1997	159,697,379	10,010,609	169,707,989	15,080,850	154,627,138	145,506,107	9,121,031
1998	167,317,320	10,722,840	178,040,160	18,662,760	159,377,400	149,778,564	9,598,836
1999	178,692,100	9,807,782	188,499,882	13,390,874	175,109,008	165,997,963	9,111,046
1/2000 - 5/2000	188,997,947	10,078,908	199,076,855	25,350,223	173,726,632	164,931,161	8,795,471
5/1995 - 5/2000	170,463,587	9,971,027	180,434,614	16,369,992	164,064,622	154,998,220	9,066,402

$10,339,305 \text{ gal} \times 12 \text{ mos}$
 $\underline{328,850 =}$
 380.8 af/yr
 Consumptive
 Use

Current Usage

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OCT 04 2002

Skaggs, Pam

From: Conrad, Vic (Corporate) [vconrad@SIMPLOT.COM]
Sent: Wednesday, June 07, 2000 11:25 AM
To: 'Skaggs, Pam - IDWR'
Subject: IDWR Transfer No. 5349 (Batiste Springs).

Pam,

We are gathering the information you requested to measure the consumptive use of water at our Pocatello manufacturing complex. I am seeking an extension until June 30th to provide you with this information. Unless I hear from you I will expect this to be an acceptable schedule for responding to your earlier request for information.

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OCT 04 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

June 7, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Vic Conrad
J.R. Simplot Co.
P.O. Box 27
Boise, ID 83707

RE: Additional Information for Transfer 5349.

Dear Vic:

In my previous letters, I specifically requested information regarding the extent of the historical use of these water rights including the total volume of water diverted annually, and additional information regarding the proposed industrial use at Simplot's manufacturing plant. This information is necessary to evaluate the change in nature of use proposed under Transfer 5349.

I have not heard from you regarding this matter since our telephone call of 04-18-00 when you said that you were collecting the plant information. Idaho statutes allow for an application for transfer to be voided if required information is not provided. I will have no option except to proceed with such an order if I do not receive the requested information.

Please submit the requested information within 30 days. If you require additional information regarding this matter, please call me directly at (208) 327-7943, e-mail me at pskaggs@idwr.state.id.us or contact me by mail, and I will be happy to assist you.

Sincerely,

Pamela S. Skaggs

Sr. Water Rights Agent

MICROFILMED

OCT 04 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

March 17, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Vic Conrad
J.R. Simplot Co.
P.O. Box 27
Boise, ID 83707

RE: Additional Information for Transfer 5349.

Dear Vic:

I received your letter of 03-07-2000 that enclosed a letter from Preston Sargent of Union Pacific Railroad Company regarding the use of water at UP's industrial complex in Pocatello. Unfortunately, the information is incomplete and I am unable to continue processing of your transfer application.

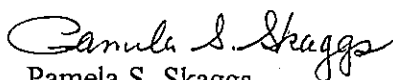
In my two previous letters, I specifically requested information regarding the extent of the historical use of these water rights including the total volume of water diverted annually. This can be calculated by quantifying the amount of water and the frequency of occurrence for each individual use annually if no other records are available.

The uses described by Mr. Sargent appear to be basically non-consumptive uses, but we want to give you an opportunity to identify and quantify any consumptive use of water at the railroad complex. The total consumptive and non-consumptive use of water has a direct impact on rather all or part of the rights may be transferred to the new use at your plant.

I also requested additional information regarding the proposed industrial use at Simplot's manufacturing plant. Industrial use is a general term used to describe a multitude of manufacturing processes. What specifically will the water be used for and what portion of the water may be consumed in the process? This information is necessary to evaluate the change in nature of use proposed under Transfer 5349.

Please submit the requested information within 30 days. If you require additional information regarding this matter, please call me directly at (208) 327-7943, e-mail me at pskaggs@idwr.state.id.us or contact me by mail, and I will be happy to assist you.

Sincerely,


Pamela S. Skaggs

Sr. Water Rights Agent

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APR 11 2002



J.R. SIMPLOT COMPANY ONE CAPITAL CENTER 999 MAIN STREET SUITE 1300
P.O. BOX 27 BOISE, IDAHO 83707-0027 (208) 336-2110 FAX (208) 389-7515

CORPORATE HEADQUARTERS

RECEIVED

MAR 6 2000

Department of Water Resources

March 7, 2000

Pamela S. Skaggs
Sr. Water Resource Agent
State of Idaho
Department of Water Resources
1301 North Orchard Street
P. O. Box 83720
Boise, Idaho 83720-0098

Re: IDWR Transfer No. 5349; License Nos. 29-02020 and 29-02225.

Dear Pam:

In response to your letter dated December 16, 1999, I am enclosing a letter from Preston Sargent, Manager Special Projects for the Union Pacific Railroad Company ("UPRR"). UPRR was the former owner of these rights and utilized water from Batise Springs for a number of purposes identified in your files for these licenses until at least 1996.

Sincerely,

Vic Conrad
Simplot Land and Development

Enclosure

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001 04 2002

W. E. (Bill) WIMMER
Vice President-Engineering
Room 1030
(402) 271-4345

J. C. (Craig) DOMSKI
Chief Engineer-Track Programs
3rd Floor-Brandels Building
(402) 280-7520

K. R. (Ken) WELCH
Assistant Vice President-Environmental
Room 930
(402) 271-4856
FAX: (402) 271-4461

UNION PACIFIC RAILROAD COMPANY
ENGINEERING DEPARTMENT



Mailing Address:
Room 1000
1416 Dodge Street
Omaha, Nebraska 68179-1000
FAX: (402) 271-6674

T. T. (Tom) OGEE
Chief Engineer-Design
Room 1030
(402) 271-4946

D. L. (Darrel) Deterding
Chief Engineer-Construction
Room 1030
(402) 271-3237

P. M. (Phil) ABARAY
Chief Engineer-Signals
Room 1000
(402) 271-3036

February 1, 2000

Pamela S. Skaggs
Sr. Water Resource Agent
State of Idaho
Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

RE: Application for Transfer No. 5349, Water Rights 29-02020 and 29-02225.

Dear Ms. Skaggs:

In responding to a recent request by the J. R. Simplot Company to provide my recollection about the most recent use of water under the above referenced water rights, I am providing the following information. I have been employed by the Union Pacific Railroad since March 3, 1969. In my current capacity I am responsible for facility and utility engineering for the Union Pacific Railroad.

Batise Springs was the sole source of water for our facility located in Pocatello, Idaho until 1996. Until that time, water was used throughout UP's industrial complex for various purposes including, but not limited to, rail car washings, filling radiators, drinking, restrooms, and irrigation.

Sincerely,

Preston Sargent
Manager Special Projects

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OCT 04 2002

PES020100

Union Pacific - General
Historic Use Statement

December 16, 1999

Vic Conrad
J.R. Simplot Company
P.O. Box 27
Boise, ID 83707-0027

RE: Application for Transfer 5349
Water Rights 29-02020 & 29-02225

Dear Vic:

I have not received a response to my 11-05-1999 letter requesting additional information regarding proposed Transfer 5349. Unless the information relating to recent historical use and proposed new uses is provided, the transfer will be voided.

These rights were originally for commercial use at the railroad depot as described by the proof of beneficial use statement and licensing field exam for Right 29-02225 resulting in the second license in 1950. The transfer proposes to use the rights for industrial use at the Don Plant. In order to evaluate the change proposed under the transfer application, a more complete picture of actual diversion and use under these rights in recent years is needed.

Please provide evidence of the diversion rates and the total volume of water diverted annually for the last five (5) year period? You can provide any information that you feel would verify the historical use of these rights, either from pumping records or calculations based on the actual individual or combined uses under these rights.

Also, a more specific description of the proposed industrial uses at the manufacturing plant is needed in order to evaluate the change from commercial to industrial use. The rights as recorded limit the rate of diversion, but an explanation describing the proposed actual diversion and consumptive use volumes of water used within the plant is needed in order to complete the evaluation.

The transfer has been reviewed by the department's hydrology section regarding the change from springs and Batiste Springs to groundwater diversion. They find that the change proposed will probably have minimal effects and would be approvable.

I will withhold the transfer from further processing for an additional 30 days to allow you to submit the required information. If no reply has been received within that time, steps will be taken to void the application. If you have any questions, you may contact me directly at 327-7943.

Sincerely,

Pamela S. Skaggs
Sr. Water Resource Agent

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OCT 04 2002

COPY

MEMORANDUM

TO: Pam Skaggs

THRU: Bob Sutter *BS*

FROM: Helen Harrington
Shane Bendixsen

RE: Transfer No. 5349 in the Name of J.R. Simplot Co.

DATE: November 29, 1999

Application for Transfer No. 5349 is proposing the transfer of the source of two water rights from Batiste Spring to ground water. Although there is limited data at IDWR to evaluate this proposal, extensive work has been done at Batiste Spring and vicinity as a result of the area being listed on the "National Priorities List" (aka Superfund sites). This evaluation is based on information obtained from IDEQ, which may fall under confidentiality laws.

Ground water in the area is recharged from precipitation on the Bannock Range south of the area and underflow from the Portneuf River through the Michaud Gravels, a deposit from the Bonneville Flood. These coarse gravels have interbeds of fine-grained American Falls Lake Beds. These lake bed sediments form discontinuous clay lenses, creating "semi-perched" zones within the Michaud gravels. Research indicates that the source of Batiste Springs may be from one of these "semi-perched" lenses. Igneous rocks underlie the area but do not seem to be major sources of water.

There are numerous springs in the area. However, hydrogeologic studies of the springs have not yet adequately explained their source and relationship to ground water. The best attempts to explain the hydrogeology of the springs are based on chemistry. Ground water flows north under the Simplot facility. Further north in the plain near Batiste Spring, ground water flow direction is east-northeast toward the Portneuf River. Water chemistry studies show that springs on both sides of the river have similar water chemistry. This is also considered to be a gaining reach of the river.

According to the site characterization report obtained from IDEQ, Batiste Spring is the only spring in the area impacted by human activity. Although there are a number of springs in the area, water chemistry work has suggested that the source of Batiste Spring may be different from other springs. Most springs are believed to be recharged from Portneuf River underflow. The chemistry of Batiste Spring indicates that water at the spring has been impacted by surface activities, such as the waste disposal ponds. Water quality information also suggests that another source of recharge for Batiste Springs may be from the southern Bannock Range.

ILMED

2002

Although I was unable to locate all the well logs for the proposed wells, I reviewed logs from several Simplot industrial wells. A review of wells logs indicated that the wells draw from the Michaud Gravels aquifer; the logs did not indicate a change of lithology as shown in the cross-section attached to the transfer (Schematic Cross Section, J. R. Simplot Co., Figure 2). The logs indicate there is a clay layer at 40-60 or 81-120 feet below land surface in most wells. Many of the wells have cased off the upper "semi-perched" aquifer. Some wells, however, have production zones both above and below the clay. A few of the wells drilled through the gravels into lava (basalt), however, the largest production zone is in the Michaud Gravels. Wells constructed to case off the upper "semi-perched" aquifer, however, may be producing from a slightly different portion of the aquifer than Batiste Spring.

A memo attached to the transfer discussing the spring/ground water relationship stated that the clay layers are absent north of the Simplot facilities and along the Portneuf River east of the plant and north to the spring. Although I can not locate the well locations specifically, the logs do indicate that the clay layer is absent in some of the wells.

The recharge source for both ground water and Batiste Spring are similar. The Batiste Springs source of recharge based on water chemistry is partly from human activity (ponds), flow from the southern Bannock Range, and underflow from the Portneuf. Recharge for water supply wells will be similar. Therefore the change in the point of diversion will probably have minimal effects.

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OCT 04 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

November 5, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Vic Conrad
J.R. Simplot Company
P.O. Box 27
Boise, ID 83707-0027

RE: Application for Transfer 5349
Water Rights 29-02020 & 29-02225

Dear Vic:

I am completing final review of the above referenced transfer and need some additional information. These rights were originally for commercial use at the railroad depot as described by the proof of beneficial use statement and licensing field exam for Right 29-02225 resulting in the second license in 1950. The rights as recorded provide a confirmation of the rate of diversion and uses at the time of licensing.

The transfer proposes to use the rights for industrial use at the Don Plant. In order to evaluate the change proposed under the transfer application, a more complete picture of actual diversion and use under these rights in recent years is needed. Could you please provide evidence of the diversion rates and the total volume of water diverted annually for the last five (5) year period? You can provide any information that you feel would verify the historical use of these rights, either from pumping records or calculations based on the actual individual or combined uses under these rights.

I checked with our region office to see if any of this information had already been provided to support the SRBA Claims for these rights. Since none was found in the claim files, I am making the request to you for additional information through this letter. I will withhold the transfer from further processing for 30 days to allow you to submit the required information. At the same time, the transfer is being reviewed by the department's hydrology section to provide recommendations regarding the change from springs and Batiste Springs to groundwater diversion.

I have enclosed profile reports of the subject rights as recorded for your convenience. If you have any questions, you may contact me directly at 327-7943.

Sincerely,

Pamela S. Skaggs
Sr. Water Resource Agent

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OCT 04 2002

MEMORANDUM

TO: Shane Bendixson

FROM: Pam Skaggs^{CP}/State Office

SUBJECT: Transfer 5349

DATE: November 4, 1999

Transfer 5349 proposes to change the source of water under Rights 29-02020 and 29-02225 from springs and Batise Springs that are tributary to the Portneuf River, to groundwater. The applicant, J.R. Simplot Company has provided a report on the hydrologic relationship between the springs and the wells as proposed on the application.

Please review the proposed change under Transfer 5349 and the hydrologic information provided by Douglas Frick of McCulley, Frick & Gilman, Inc. (see attached) and advise me of your evaluation of this proposal. I will withhold the application from further processing until I have received your response.

COPY TO FILE

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OCT 04 2002

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

145349
11-19-98

RECEIVED
JAN 15 1999
Department of Water Resources

INITIAL REVIEW BY: HWJ

1. Right number 29-02225 + 29-02020 Applicant JR Simplot

2. Type of right: ☒ Decree ☐ License ☐ Claim

3. Purpose of transfer: ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☒ Other Change source from Springs to Groundwater

4. Check:

a. ☒ Source ☐ Priority ☒ Amount ☐ Purpose ☐ Period of use

b. ☒ Description of original point of diversion.

c. ☒ Description of original place of use.

5. Amount of land &/or water transferred:

a. ☒ All of right.

b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).

c. ☐ Check description of point(s) of diversion.

d. ☒ Check description of place of use.

e. ☒ Check map (shows p.d. and p.u. after transfer).

f. ☒ Check for correct signature, notarization, and fee.

g. ☒ Check proof of ownership of right &/or land from which water is transferred.

h. ☒ Check for expansion in use of right. Comments _____

i. ☒ Check for existing water rights from same source, on land water is being transferred to.

Right number(s) 29-02501, -02502, -04489

j. ☒ Is use within a Watermaster District? ☐ Yes ☒ No

If yes, what district? _____

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____

2. Is transfer published correctly? ☒ Yes ☐ No

3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☒ Approve

2. ☐ Deny

3. Conditions* MEASURING REQUIREMENT

4. By RDC Date 1/12/99

66770

Affidavit of Publication

State of Idaho

County of Power

Brett Crompton being first duly sworn on oath, states:

That he is the editor and co-publisher of The Power County Press, a newspaper of general circulation in Power County, Idaho, published weekly at American Falls in said county, that said newspaper has been published in said county uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That the annexed notice or advertisement was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for 2 successive weekly issues thereof, the date of the first publication being the 2 day of December 1998 and the date of the last publication being the 9 day of December 1998.

Signed Brett Crompton

State of Idaho

County of Power

On this 10 day of December in the year of 1998, before me, a Notary Public, personally appeared Brett Crompton, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Jolly Morris
Notary Public for Idaho
Residing at American Falls, Idaho
My commission expires: January 21, 2003

Simplot Co. seeks water right change

Published in The Power County Press
Dec. 2, 9, 1998.

NOTICE OF PROPOSED CHANGE OF A WATER RIGHT NO. T5349

Notice is hereby given that JR Simplot Co, PO Box 27, Boise ID 83707, has applied to the Department of Water Resources to add a point of diversion, change the place of use, and change the source of two surface water rights. The rights sought to be changed are evidenced by decrees and recorded as follows:

Decree No.: 29-02020
Source: Springs/Portneuf River
Amount: 3.00 cfs
Priority: 08/08/1904
Point of Diversion: SWNE SEC 7
T06S R34E, POWER COUNTY
The water is used for commercial use.
Decree No.: 29-02225
Source: Batise Springs
Amount: 3.50 cfs
Priority: 03/10/1920
Point of Diversion: SWNE SEC 7
T06S R34E, POWER COUNTY
The water is used for commercial use.

TO BE CHANGED AS FOLLOWS:

The applicant intends to abandon Batise Springs as a source of water and transfer these rights into existing wells and additional wells to be drilled. These wells are or will be in T06S R34E SEC 7. The place of use will be the JR Simplot plant in the S1/2 SEC 7 T06S R34E.

Any protests against approval of the proposed changes must be filed with the Idaho Department of Water Resources, 900 N Skyline Dr. Ste A, Idaho Falls, ID 83402, together with a protest fee of \$25 on or before December 21, 1998. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER
Director

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OCT 04 2002

RECEIVED

DEC 11 1998

Department of Water Resources
Eastern Region



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 24, 1998

JR SIMPLOT CO
PO BOX 27
BOISE ID 83707

RE: Application for Transfer #5349

Dear Applicant:

This office is currently in the process of advertising the application in the Power County Press on December 2 and 9, 1998. The advertisement will be published once a week for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Harold W. Jones
Water Right Supervisor

HWJ::sc

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OCT 04 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 24, 1998

POWER COUNTY PRESS
PO BOX 547
AMERICAN FALLS ID 83211

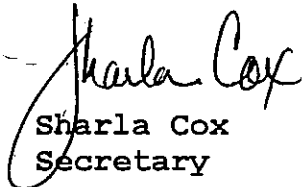
Dear Publisher:

Enclosed you will find a legal notice which we wish to have published on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before DECEMBER 21, 1998.

Respectfully submitted,


Sharla Cox
Secretary

Enc.

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OCT 04 2002

NOTICE OF PROPOSED CHANGE OF A WATER RIGHT
NO. T5349

Notice is hereby given that JR Simplot Co, PO Box 27, Boise ID 83707, has applied to the Department of Water Resources to add a point of diversion, change the place of use, and change the source of two surface water rights. The rights sought to be changed are evidenced by decrees and recorded as follows:

Decree No.: 29-02020 Source: Springs/Portneuf River
Amount: 3.00 cfs Priority: 08/08/1904
Point of Diversion: SWNE SEC 7 T06S R34E, POWER COUNTY
The water is used for commercial use.

Decree No.: 29-02225 Source: Batise Springs
Amount: 3.50 cfs Priority: 03/10/1920
Point of Diversion: SWNE SEC 7 T06S R34E, POWER COUNTY
The water is used for commercial use.

TO BE CHANGED AS FOLLOWS:

The applicant intends to abandon Batise Springs as a source of water and transfer these rights into existing wells and additional wells to be drilled. These wells are or will be in T06S R34E SEC 7. The place of use will be the JR Simplot plant in the S1/2 SEC 7 T06S R34E.

Any protests against approval of the proposed changed must be filed with the Idaho Department of Water Resources, 900 N Skyline Dr. Ste A, Idaho Falls, ID 83402, together with a protest fee of \$25 on or before December 21, 1998. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER
Director

Published in the Power County Press on December 2 and 9, 1998.



CORPORATE HEADQUARTERS

November 16, 1998

Harold W. Jones
State of Idaho
Department of Water Resources
Eastern Region
900 Skyline Dr.
Idaho Falls, ID 83402-1718

RECEIVED
NOV 18 1998

Department of Water Resources
Eastern Region

Re: Amended Application for Transfer of Water Right Nos. 29-02020, 29-02225, and 29-04334.

Dear Harold:

In responding to your June 18, 1998, letter enclosed is a transfer application amended to remove statutory claim no. 29-04334. After reviewing the record on file with the IDWR I am not sure why Union Pacific filed this claim on March 10, 1983. It may somehow be related to the storage reservoirs identified in your letter. It is possible that Union Pacific filed the claim to cover an instantaneous diversion rate from their reservoirs that exceeded the previously licensed amounts. It is also possible that they filed the claim without recognizing that their water uses from this source were covered under the two licenses (IDWR License nos. 29-02225 and 29-02020). In any event, I agree with your analysis that the water claimed under this statutory claim may not be additive.

In responding to your opinion about the rate of diversion under the licenses I am enclosing a copy of a transcript of a State of Idaho, Department of Reclamation, Deposition of Chas. M. Stayner, Construction Foreman for the Oregon Short Line Rail Road Company, predecessor to the Union Pacific Railroad Company. The enclosed transcript, certified on August 30, 1930, was copied from the IDWR's file for License no. 29-02225. Presumably IDWR used this deposition as part of its analysis in issuing license no. 29-02225.

During the deposition Mr. Stayner acknowledges and confirmed the license IDWR previously issued for 3.0 c.f.s (License no. 29-02020). In this testimony Mr. Stayner provides details about the diverting works and the pipelines used to transport water to the place of use. In addition to water being diverted through a system of storage reservoirs identified in your June 18, 1998, letter, Mr. Stayner explains there was also a 10 inch pipeline connecting the source directly to the place of use bypassing the storage reservoirs. This provided Union Pacific with the ability to divert and transport water to the place of use simultaneously from two directions: (1) directly from the source using the 10 inch pipeline and (2) through the storage reservoirs identified in your letter.

During the deposition Mr. Stayner testified that he witnessed, at the place of use, the delivery of slightly over 6.5 c.f.s., the diversion rate allowed under IDWR License No.

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29-02020 (3.0 c.f.s) plus the diversion rate allowed under IDWR License No. 29-02225 (3.5 c.f.s.). This testimony, among other documentation, was used by IDWR to issue the second license for 3.5 c.f.s. Based on this record and the fact that IDWR issued the second license with the understanding that it had already issued a license for 3.0 c.f.s. it seems apparent that the diversion rates for these two licenses are additive.

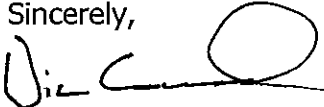
The enclosed information along with our amendment of the transfer application to remove the statutory claim should satisfy your concerns about a "new depletion" on the Snake River Plain. The total of 6.5 c.f.s was confirmed to be diverted under these licenses by the IDWR and has been appropriated since August 8, 1904 for license no. 29-02020 and since March 10, 1920 for license no. 29-02225.

The physical relationship between our existing Don Plant wells and Batise Springs, is described in the enclosed Memorandum dated June 24, 1998, from Douglas Frick, Senior Hydrogeologist with the consulting firm McCulley, Frick & Gilman, Inc. Mr. Frick's conclusion is based upon numerical groundwater flow modeling and numerous groundwater wells located in this area of the aquifer.

Although there will be additional points of diversion, the combined instantaneous diversion rate under all existing and new points of diversion will not exceed the amounts already appropriated under existing water rights. The enclosed transfer does not propose a "new depletion" from the Snake River Plain. The enclosed transfer application is seeking your approval to change the location where we can divert water previously Licensed.

If you have any additional concerns about the enclosed transfer please contact me. My phone number is 208-389-7359.

Sincerely,



Vic Conrad
Simplot Land and Development

Enclosures

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MEMORANDUM

To: Terry Uhling - J.R. Simplot Company
From: Douglas Frick - McCulley, Frick & Gilman, Inc.
Subject: Physical Relationship of Don Plant Area Groundwater to Batiste Spring
Date: June 24, 1998 MFG Project No. 5205.9

The following text with attachments describes the physical relationship between groundwater produced at the Don Plant water supply wells and groundwater discharge at Batiste Spring. Please call me with any questions you may have regarding this information.

The water supply wells at the Don Plant are located approximately 1,750 feet southwest of the Portneuf River and approximately 2,000 to 2,500 feet south-southwest of Batiste Spring (see attached Figure 1). Production is from thick sand and gravel units at depths of about 100 to 220 feet. These coarse-grained alluvial deposits are overlain by the fine-grained American Falls Lake Beds (AFLB) and are hydraulically continuous with the Michaud Gravel flood deposits over which the Portneuf River flows northwestward to the American Falls Reservoir (see attached Figure 2). The AFLB are absent to the north of the main Don Plant facilities and along the Portneuf River from east of the Don Plant to north of Batiste Spring.

Regional and local potentiometric (groundwater level) data from wells indicate that groundwater flow from the plant area is to the north with eventual discharge to the Portneuf River via springs or by direct discharge to the riverbed. This discharge is part of a much larger volume of groundwater discharge that occurs to the Portneuf River along the reach from I-86 downstream (northward) to the American Falls Reservoir. The river gains approximately 200 cfs along this reach.

The Don Plant water supply wells capture a portion of the groundwater that flows northward from the plant. Numerical groundwater flow modeling indicates that in the absence of pumping from these wells, this groundwater would flow northward and upward into the Michaud Gravels (where the AFLB are absent) and then discharge at Batiste Spring, as well as via direct discharge to the riverbed.

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Hydrology Review

LEGEND:



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PLANT WATER SUPPLY WELL



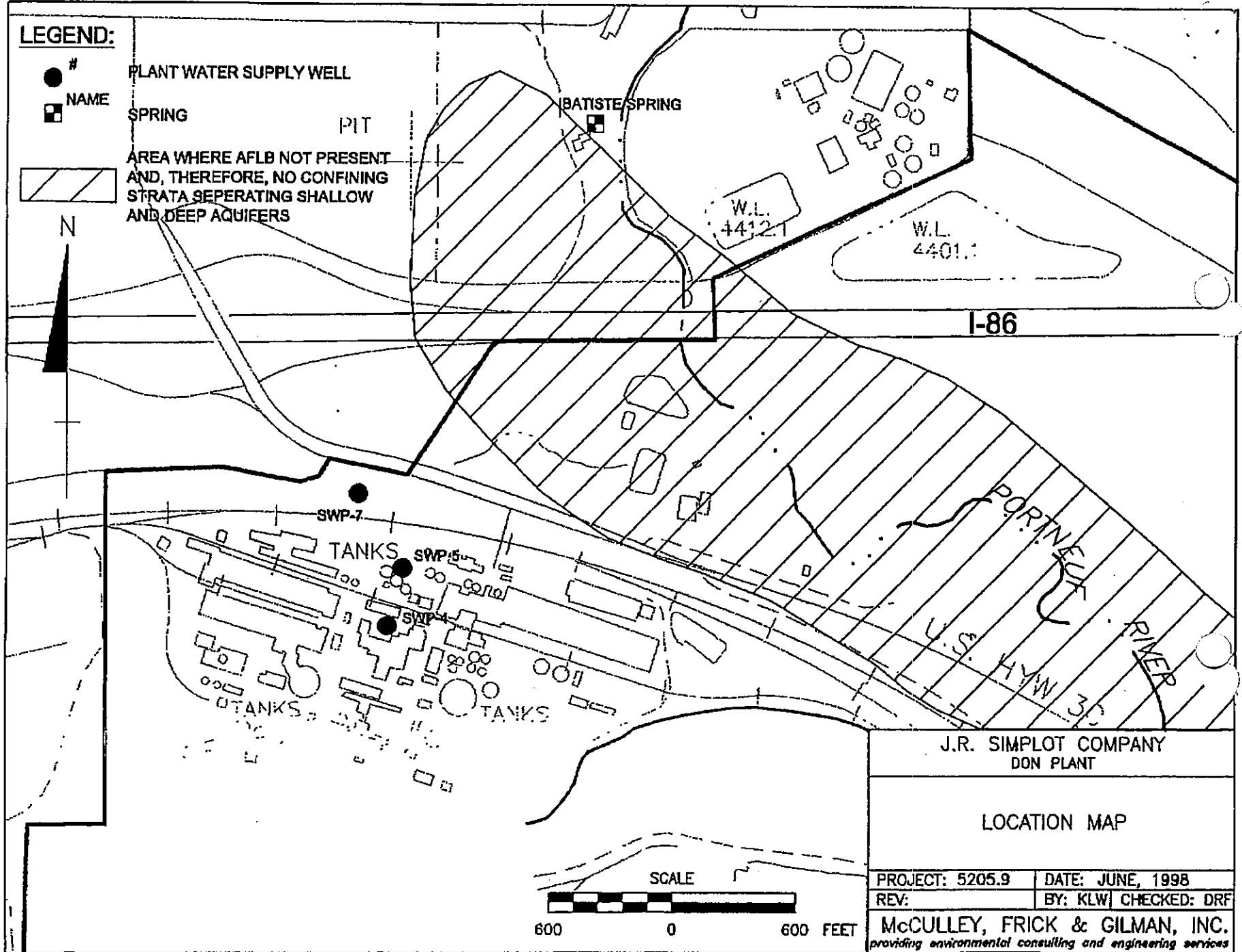
NAME

SPRING



AREA WHERE AFLB NOT PRESENT
AND, THEREFORE, NO CONFINING
STRATA SEPERATING SHALLOW
AND DEEP AQUIFERS

N



J.R. SIMPLOT COMPANY
DON PLANT

LOCATION MAP

PROJECT: 5205.9	DATE: JUNE, 1998
REV:	BY: KLW CHECKED: DRF

McCulley, Frick & Gilman, Inc.
providing environmental consulting and engineering services

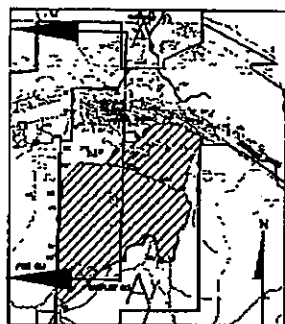
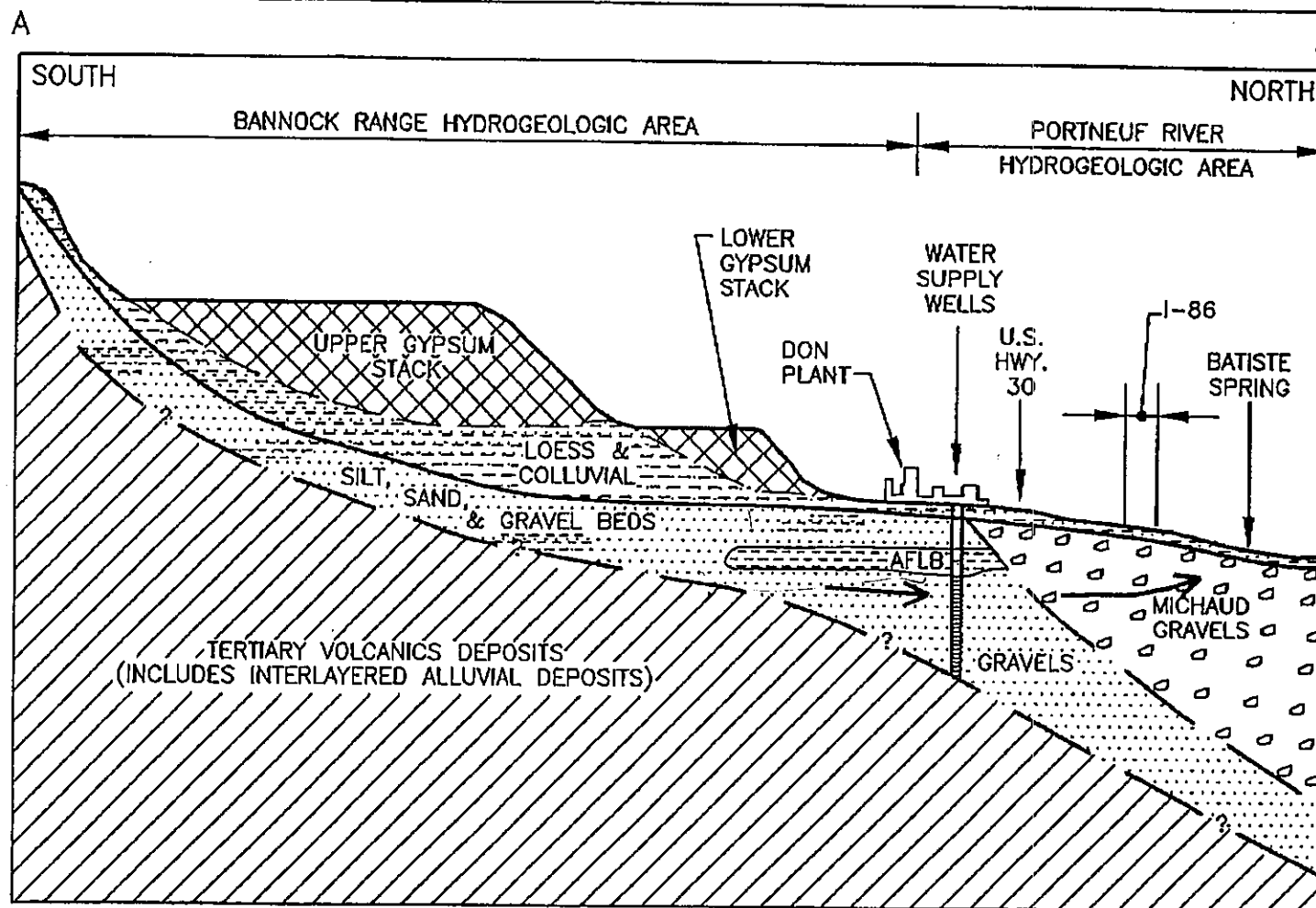
FIGURE 1

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JUN 24 1998 06:20 PM MULLIT FRICK&GILMAN

P.3/4

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OCT 04 2002



LOCATION OF CROSS SECTION

J.R. SIMPLOT COMPANY
DON PLANT

SCHEMATIC CROSS SECTION

FIGURE 2

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Permit No. 14596

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and post-office address.

Ans. ~~Chas.~~ Chas. M. Stayner; age 46; Ogden, Utah; Construction Foreman, O.S.L.R.R.Co.; address 2873 Van Buren Avenue, Ogden, Utah.

Ques. 2. Are you acquainted with Thos. S. Bult, Right of Way Engineer, O.S.L.R.R.Co., the holder of Permit No. 14596? How long have you known him and where does he reside?

Ans. Yes; about 6 years. His residence is Salt Lake City, Utah.

Ques. 3. Have you read or heard read said Permit No. 14596, and are you familiar with its provisions and conditions?

Ans. Yes.

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Springs on Portneuf River, known as Batise Springs, situated in SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 7, T. 6 S., R. 34 E., B. M., in Power County, Idaho. Water is diverted by pumping plant containing two centrifugal pumps direct connected to two electric motors, each rated at 1700 gallons per minute against a 460 foot head, and two 823 gallons per minute steam pumping engines with condensers. Water pumped through two pipe lines, one a 12 inch pipe line 1.1 miles long, the other a 10 inch pipe line 0.67 miles long and a 14 inch pipe line 0.43 miles long, from pump house to two reservoirs having 2,000,000 and 2,339,000 gallons capacity, respectively. A 10 inch and 12 inch pipe line each 3.8 miles long take the water from reservoirs to Pocatello Terminal. Also a 10 inch by-pass pipe line 0.43 miles long so connected that the pumps can force water direct to terminals without going into reservoirs. These works also take care of three (3) second feet of water of said Applicant now covered under Water License issued on October 31, 1913, under Permit No. 771.

Rec'd. Aug 28, 1930 -1-
MICROFILMED
OCT 14 2002

14596

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. Six and five-tenths (6.5) second feet (this includes three (3) second feet of a prior right under Water License - Permit No. 771), saw this amount conveyed August 6th, 1930.

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each sub-division in which water has been used and number of acres irrigated in each subdivision). State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Supply for O.S.L.R.R.Co. locomotives, yards, shops, offices, cafe, depots, parks, tenements and other railroad purposes, also for fire protection of company's property at Pocatello Terminal.

Ques. 7. If for power or other purposes than irrigation, state how water has been applied and to what extent.

Ans. Water is used for purposes mentioned in answer to question No. 6, and applied through distributing system mentioned in answer to question No. 4. No power is generated.

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. Not used for irrigation, except small amount for parks and for grounds of company tenements.

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. No.

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. Have witnessed the use of water from Battise Springs Plant for general railroad purposes heretofore mentioned at various times since the completion of the works. Witnessed the plant on August 6th, 1930, and witnessed delivery of slightly over 6.5 second feet. (This covered 3.5 second feet under Permit No. 14596 and 3 second feet of a prior right covered under Water License - Permit No. 771, issued October 31, 1913).

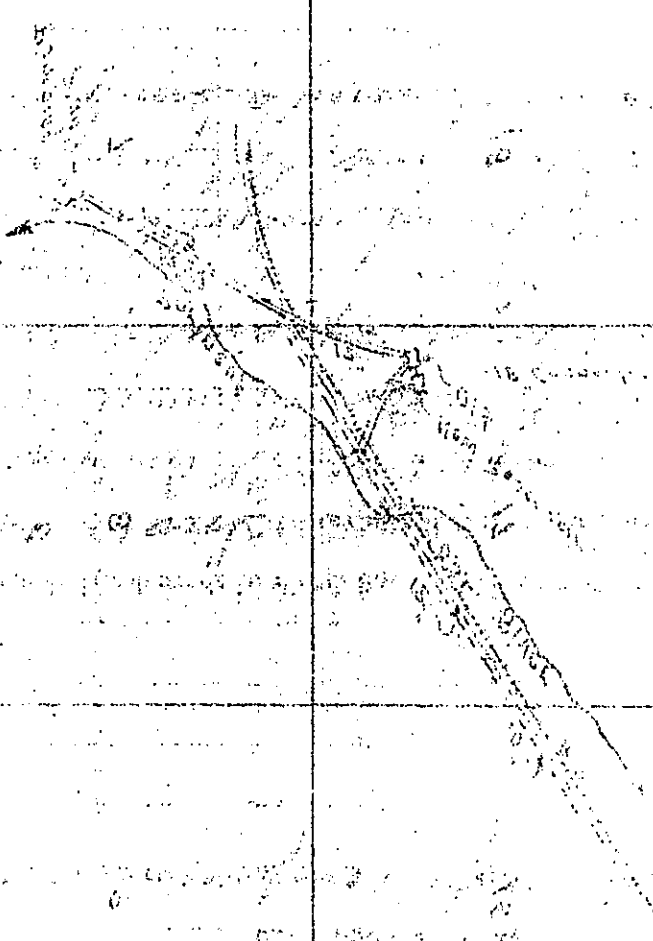
I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Pocatello County of Idaho, on this 8th day of August, A.D. 1930.

Notary Public.

My Commission Expires

May 6, 1933

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OCT 14 2002



REPORT ON PROOF OF

PERMIT NO. _____

REPORT OF ENGINEER

BOISE

DEPARTMENT OF RECLAMATION

STATE OF IDAHO

ENGINEER

DEPARTMENT OF RECLAMATION

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF ENGINEER

Permit No. 14596This proof is for BEN. USE

In Water District No. _____

1. Name of applicant: Oregon Short Line Railroad Co.
2. Source of water supply: Batise Springs
3. Location of point of diversion: Is in the SW¹/₄NE¹/₄ of Section 7
T. 6 S R. 34 E County of ~~Bannock~~ Power
4. Describe works as they exist, giving dimensions and capacities of same: Brick pump house, walled spring, 2 reservoirs of concrete, Capacities of 2,000,000 and 2,500,000 Gal. cap. connected to pumps by 12" and 14" pipes. Outlet is by 12" 3/4 10" iron pipes to R.R. shops for daily use to city mains for emergency use. G.E. Motor 3/4 2 Worthington Pumps in station
5. Water is used for: general railroad water supply
6. State whether or not water has been turned into works of diversion: yes
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): At Company's yards and facilities at Pocatello

Depot, dwellings, yards, shops, compressors, etc. etc.

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach? Snake River

Remarks: Pump station has 2-3 stage 1759 G.P.M. Centrifugal pumps against 125' pressure, disch. to Riv. by 2 pipe lines 12" 3/4 10-14" resply. Pump rating = 2,000,000 Gal. per day discharge (An older installation of Laidlaw-Gordon plunger pumps are held in reserve, their capacity being 1,000,000 Gal. per day) At 15 hour run on night of 7-30-30 with both pumps running gave discharge of 3060 G.P.M. and a pump draw down of 5 1/2 inches

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This examination was made on the 31st day of July 1930

(Signed) _____

Examiner.

14596

POCATELLO
(Approval) &
Print of
Use

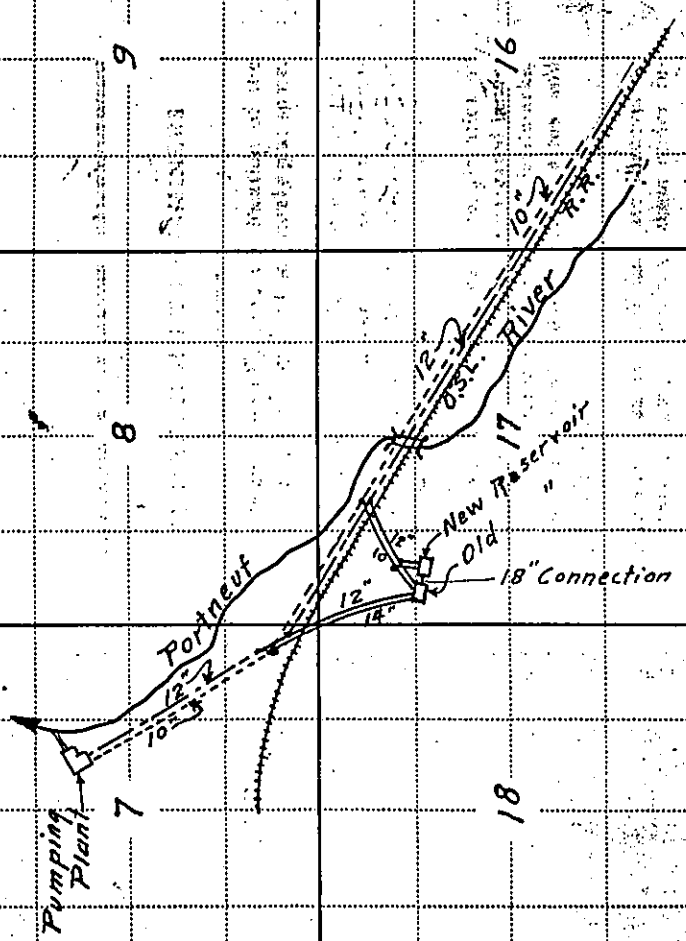
STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE

REPORT OF ENGINEER

PERMIT NO.



MICROFILMED
OCT 11 2002

REPORT OF ENGINEER

DEPARTMENT OF RECLAMATION

STATE OF IDAHO

BOISE, IDAHO

16

O.S.L.RY.

Pocatello

Permit No. 14596

Examination for BEN. USE

County BANNOCK

INSTRUCTIONS TO EXAMINERS

1. Always carefully note the location of the point of diversion, and accurately plat same.
2. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plat same.
3. Make a map showing the correct location of streams and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
4. If any unusual conditions are discovered, make a plain statement of them under remarks.
5. Always see the holder, if possible, and go over the whole ground with him, and make your report only upon actual existing facts and conditions.

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This examination was made on the

(Signed)

Butler (W.M.)

2nd Bldg. on 1st part

Solar

In Water District No.

Location of the

Water Springs

Location of point of diversion: 1 in the

County of

Describe works as they exist giving dimensions and capacities of same:

State whether or not water has been turned into works of diversion

Water is used for:

Describe works as they exist giving dimensions and capacities of same:

At some time within the last year

Under cultivation in each forty-acre tract

Legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres

Permit No.

This report is for

Name of applicant

Source of water supply

Location of point of diversion: 1 in the

County of

Describe works as they exist giving dimensions and capacities of same:

State whether or not water has been turned into works of diversion

Water is used for:

Describe works as they exist giving dimensions and capacities of same:

At some time within the last year

Under cultivation in each forty-acre tract

Legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres

State whether or not water has been turned into works of diversion

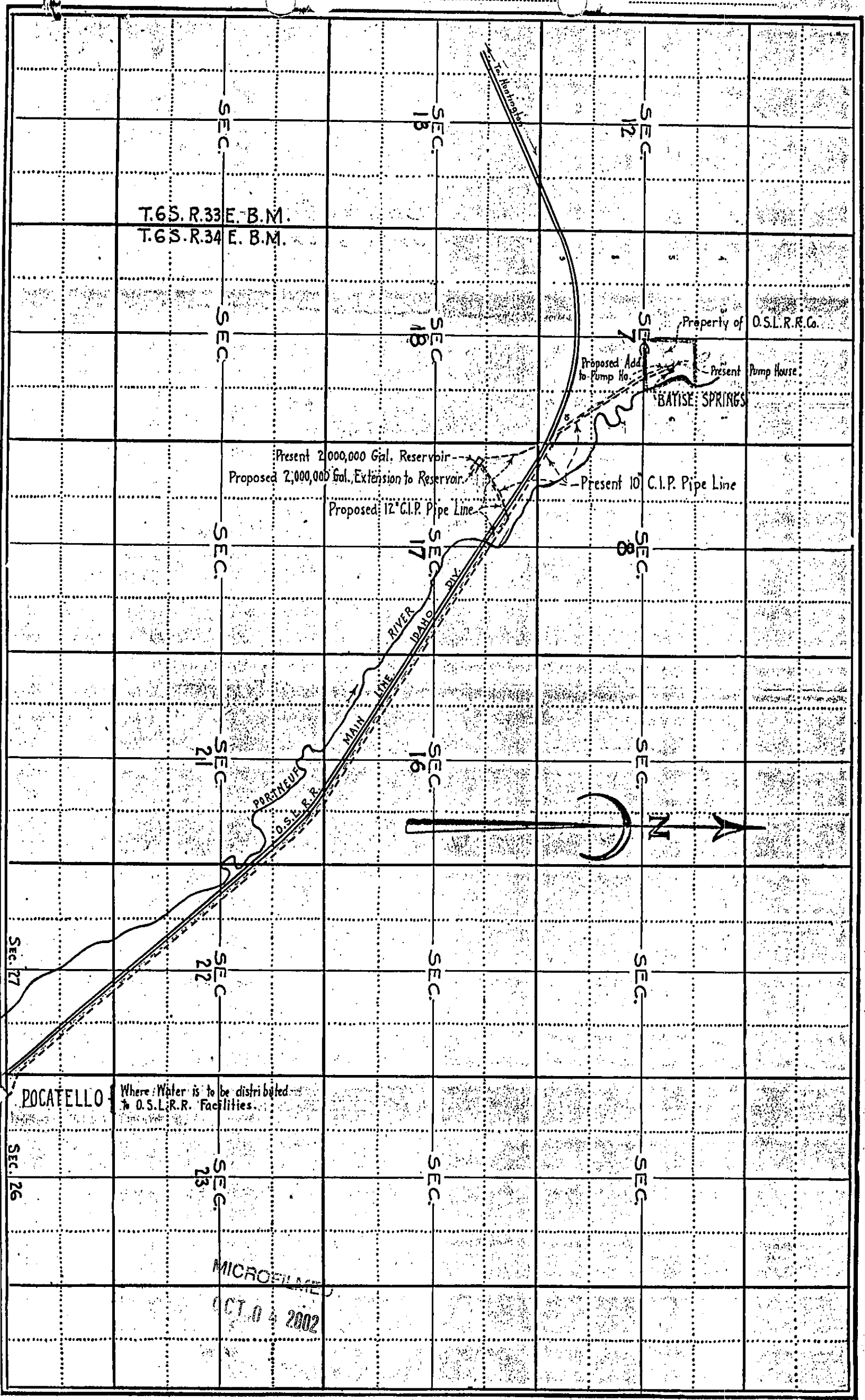
Water is used for:

Describe works as they exist giving dimensions and capacities of same:

At some time within the last year

Under cultivation in each forty-acre tract

Legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres



WR5808NP
(00-26)

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

06/19/95 08:30:49
Page 1

Water Right Number - 29-02020

Prefix Translation: WATER RIGHT

Old (D) Number - 771

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***

OREGON SHORT LINE RAILROAD CO.

1 -
2 -
3 -

City- SALT LAKE CITY

State- UT Zip-

Phone -

+ - - Priority Date - - +
08/08/1904

+ - - Region - - - +
15 EASTERN

+ - - Stage - - - +
L - LICENSE

+ - - Status - - - - +

+ - - Source - - - - - +
SPRINGS

+ - - Tributary - - - - - +
PORTNEUF RIVER

+ - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County Diversion Name Diversion Rate Diversion No.

06S 34E 7 SW NE (29) CARIBOU

Should be Power Co.

CA 6-19-9

+ - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume

10 - COMMERCIAL

3.000

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +
3.000

+ - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

+ - - Remarks - - - - - +
P/U IS RAILROAD YARDS AT POCATELLO.

+ - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

+ - - Conditions of Approval - - - - - +
No Conditions of Approval found.

+ - - Decree Plaintiff - - - + + - - Decree Defendant - - - + + - Decree Date - +

00/00/0000

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Confirmed on maps as Batiste Springs
per AS & located in Coeur d'Alene Co.
Database updated.
6-15-95
AS

06/19/95 08:30:49
Page 2

Prefix Translation: WATER RIGHT

[illegible]

+ - - Audit Fields - 05/20/85 05/22/88

+ - - - - - Water Rights Dates and Flags Area - - - - - +

Proof Due Date	-	00/00/0000	Field Exam Made	-	00/00/0000	Field Exam Fee	-	
Approved/Denied	-	00/00/0000	Protested Date	-	00/00/0000	Swan Falls	-	
Proof Made Date	-	00/00/0000	Hearing Date	-	00/00/0000	Temporary Right	-	P
Exam to S.O. Date	-	00/00/0000	Verified Date	-	05/20/1985	DLE/Carey Act	-	
Order Show Cause	-	00/00/0000	Receipt Number	-		Water District	-	29
Licensed Date	-	08/01/1979	Appl Received	-	00/00/0000	Transfer/Amended	-	
Decree Date	-	00/00/0000	Name Connector	-		POU Ownership Flag	-	
Presumption Flag	-							

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