

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No.

75905

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

- | Yes | N/A | |
|-------------------------------------|--------------------------|--|
| ☒ | ☐ | * Means the item is <u>always required</u> and must be included with the application. |
| ☒ | ☐ | * Completed Application for Transfer of Water Right form, Part 1. |
| ☒ | ☐ | * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative. |
| ☒ | ☐ | * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded. |
| ☒ | ☐ | ☐ Complete and attach an Application for Transfer Part 2B <u>for each water right</u> for which <u>only a portion</u> is proposed to be changed through this transfer application |
| ☒ | ☐ | * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s). |
| ☒ | ☐ | * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.) |

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

- | | | |
|-------------------------------------|-------------------------------------|--|
| ☐ | ☒ | #1 If the applicant is a business, partnership, organization, or association, and <u>not</u> currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.) |
| ☒ | ☐ | #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner. |
| ☐ | ☒ | #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). |
| ☐ | ☒ | #3 Documentation of authority to make the change if the applicant is not the water right owner. |
| ☐ | ☒ | #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.) |
| ☐ | ☒ | #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at http://www.idwr.idaho.gov/water/rights/ . |
| ☐ | ☒ | #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.) |
| ☒ | ☐ | * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.) |
| ☒ | ☐ | #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. |
| ☐ | ☒ | #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) |
| ☐ | ☒ | #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.) |
| ☐ | ☒ | #9 Other. Please describe: _____ |

RECEIVED

AUG 13 2009

WATER RESOURCES
WESTERN REGION

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 75905

AUG 13 2009

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

WATER RESOURCES
WESTERN REGION

Name of Applicant(s) J.R. Simplot Company Phone 208-336-2110

Mailing address PO Box 27 Boise, ID 83707 Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☒ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☒ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative _____ Phone _____

Mailing address _____ Email _____

- ☐ Send all correspondence for this application to the representative and not to the applicant.
- OR
- ☐ Send original correspondence to the applicant and copies to the representative.
- ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.
- OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). 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 rejection of the application or cancellation of an approval.

J.R. SIMPLOT COMPANY

By: [Signature]
Signature of Applicant or Authorized Representative

Terry T. Uhling
Senior Vice President,
Secretary and General Counsel
Print Name and Title if applicable

August 12, 2009
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

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 your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**. 0.15 cfs out of the 4.22 cfs licensed under water right no. 2-2053 will be transferred to a new point of diversion. 7.6 acres out of the 211 acres licensed for irrigation under water right no. 2-2053 will be transferred to a new place of use.

NOTE: The following is a description of 2-2053 after IDWR Transfer No. 75758

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☐ ☒	2-2053	3.91 cfs	Irrigation	3/15 to 11/15	Snake River Tributary to Columbia River
☐ ☒	2-2053	0.15 cfs	Irrigation	3/15 to 11/15	Snake River Tributary to Columbia River
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 4.06 cfs and/or _____ ac-ft

2. Total amount of water proposed to be transferred or changed 0.15 cubic feet per second and/or _____ acre-feet per annum.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it Attachment #5.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
X	4	NE	SW	NW	34	5S	4E	Elmore	Snake River	
	1	NE	NE	NE	36	4S	2E	Elmore	Snake River	

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed-the following chart is therefore not completed. (Proceed to #5.)

NEW

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4S	2E	25											12.37	40	15		40	38	145.37
		36		19			31												50
5S	4E	33					7.63												7.63

Total Acres (for irrigation use) 203

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future: _____

- b. Who owns the property at the point(s) of diversion? Idaho Power Company

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system: Please see the attached Agreement entered into as of November 17, 1952. The applicant is the Successor to the interests of the Bennetts in the Agreement.

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: _____

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer: 7.63 acres within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25 T.4S R.2E will no longer be irrigated.

- e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use: _____

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- | | | |
|--------------------------|--------------------------|---|
| ☐ | ☐ | undergone a period of five or more consecutive years of non-use, |
| ☐ | ☐ | currently leased to the Water Supply Bank, |
| ☐ | ☐ | currently used in a mitigation plan limiting the use of water under the right, or |
| ☐ | ☐ | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe: _____

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

1. Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above.:

Transfer contains 5 pages and 4 attachments.
Received by SB Date 8.13.09 Prelim. Check by KW Date 9/24/2009
Fee Paid \$100.00 Date 7/10/2009 Received by SRF Receipt # C0889163
Add'l Fee Paid _____ Date _____ Received by _____ Receipt # _____

A G R E E M E N T

1. THIS AGREEMENT, Made and entered into as of the 17th day of November, 1952, by and between IDAHO POWER COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Maine, duly qualified and doing business in the State of Idaho, hereinafter referred to as the "Power Company", and SNAKE RIVER IRRIGATION DISTRICT, an irrigation district organized, existing and operating under the laws of the State of Idaho, hereinafter referred to as the "District", and R. H. BENNETT and GRACE J. BENNETT, husband and wife, hereinafter referred to as "Bennetts",

W I T N E S S E T H:

2. WHEREAS, the District owns and operates an irrigation system in Elmore County, Idaho, the facilities thereof comprising, among other things, a pumping plant on the right or north bank of Snake River in Section 13, Township 5 South, Range 3 East, Boise Meridian, pipelines, flumes, canals and canal system extending from said pumping plant both northwesterly and southeasterly; and, WHEREAS, the District is the owner of certain water rights from Snake River for irrigation purposes (including but not limited to Permit No. 5375 in the records of the Department of Reclamation of the State of Idaho) with point of diversion located at its said pumping plant, which water rights aggregate a flow of one hundred twenty-seven (127) cubic feet per second of time, and the District desires to change its said point of

diversion as hereinafter set forth for the reason that the diversion of said waters by the District by pumping requires three pumping lifts of 50 feet, 100 feet and 150 feet, respectively, to the canals of the District with the attendant operating, maintenance and pumping costs and expense; and

3. WHEREAS, Bennetts own and operate an irrigation system in Elmore County, Idaho, the facilities thereof comprising, among other things, a pumping plant on the right or north bank of Snake River in Section 32, Township 5 South, Range 4 East, Boise Meridian, and a canal system extending from said pumping plant for the irrigation of lands in Sections 29, 30 and 32, Township 5 South, Range 4 East, Boise Meridian; and are the owners of certain water rights and rights to the use of water from Snake River for irrigation purposes, aggregating a flow of eleven (11) cubic feet per second of time, with point of diversion located at said pumping plant, and desire to change the point of diversion as herein set forth for the reason that the diversion of water by Bennetts by pumping from Snake River requires a pumping lift of approximately 45 feet with attendant maintenance, operating and pumping costs and expense; and,

4. WHEREAS, the Power Company, pursuant to license of the Federal Power Commission under the Federal Power Act, has constructed, owns and operates a hydroelectric power project known as the C. J. Strike Hydroelectric Development, including a dam across Snake River in the west half of Section 34, Township 5 South, Range 4 East, Boise Meridian, which dam has created and provided a large reservoir upstream therefrom known as the C. J. Strike Reservoir in which the normal top operating level will be maintained at elevations

Attachment 1a

of from 2450 to 2455 feet, and the Power Company has constructed and installed in the north side of said dam a concrete outlet works through which the District and Bennetts can divert their respective water rights from the Power Company's said reservoir, as hereinafter provided, by flow into a canal to be constructed as herein provided to be known as the "District Canal"; and

5. WHEREAS, the arrangements herein provided will operate to the mutual advantage of all parties hereto in that the District can eliminate a portion of its pumping costs and Bennetts can eliminate their pumping costs and the Power Company, by the change of the point of diversion of the District and the point of diversion of Bennetts below the C. J. Strike Dam on the north bank of Snake River to the said concrete outlet works in the north side of said dam can obtain a more efficient use of the waters of Snake River and the said reservoir and greater flexibility of its operation by the fluctuation of the reservoir below said dam at said points of diversion in accordance with the power plant output requirements of the Power Company; and,

6. WHEREAS, the respective uses of the parties are necessary to the continued growth and development of the area, and the arrangements herein provided for will permit the most complete, economical and beneficial use and development of the water and power resources of the State of Idaho; and it is the considered judgment of the parties hereto that the arrangements herein made and agreed to are in the best interests of all parties hereto, with mutual and separate advantages and benefits to all concerned;

7. NOW, THEREFORE, in consideration of the agreements and covenants of the parties herein contained, the said parties have contracted and agreed, and do hereby contract and agree, as follows:

8. THE POWER COMPANY AGREES:

(a). That it has constructed and installed in its C. J. Strike Dam and Reservoir, on or near the right or north bank of Snake River, a concrete outlet works with control gate and that such concrete outlet works and control gate shall hereafter be continued at all times as a place and point for the diversion by the District and by Bennetts of their respective water rights in Snake River; that the Power Company will at all times hereafter maintain the water level in said C. J. Strike Reservoir at said concrete outlet works and control gate at or above the 2450-foot elevation level and will make available the water in such reservoir at or above the 2450-foot elevation level for diversion by the District and by Bennetts of their respective water rights into the District Canal;

(b). That the District shall have the right to divert at said concrete outlet works from C. J. Strike Reservoir into the District Canal, without charge, cost or expense, during the period from March 15th to October 31st of each year hereafter, a sufficient flow and quantity of irrigation water from the C. J. Strike Reservoir to provide the District, after allowing for reasonable evaporation, seepage and other canal losses in transmission in the District Canal, with a flow of one hundred twenty-seven (127) cubic feet per second of time in the District Canal at a point opposite the District's presently existing pumping plant in Section 13, Township 5

South, Range 3 East Boise Meridian, less any diversions by the District from the District Canal above said point for the irrigation of lands in the District; and,

- (c). That Bennetts shall have the right to divert at said concrete outlet works from C. J. Strike Reservoir into the canal, without charge, cost or expense, during the period from March 15th to October 31st of each year hereafter, a sufficient flow and quantity of irrigation water from the C. J. Strike Reservoir to provide Bennetts, after allowing for reasonable evaporation, seepage and other canal losses in transmission in the District Canal, a flow of eleven (11) cubic feet per second of time at the point of diversion of Bennetts from the District Canal;

(c). That the Power Company will pay to the District and to Bennetts the sum of Seventy-five Thousand Dollars (\$75,000.00) as a contribution to the cost of the construction of the District Canal and pumping plants and the canal to the lands of Bennetts from the District Canal, which canal to the lands of Bennetts is to be known as the "Bennett Canal", it being understood and agreed that the Power Company shall have no interest in, nor responsibility with respect to, the design, construction, operation, maintenance, or ownership of, such District Canal or such Bennett Canal, or the pumps, diversion works, or other structures in connection with either such canal;

(d). That The Power Company will provide excess lumber and materials presently owned by the Power Company and stored in the materials storage yard at the C. J. Strike damsite (as determined by the Company) as can be used in the construction of a bridge by the

District across the District Canal for the access road crossing Snake River below the C. J. Strike Dam to be known as the "access road bridge", and that it will, without expense to the District or to Bennetts, construct and install the necessary electric transmission line to, and all necessary transformers at and for, the new pumping plant of the District to be situate in the north half of Section 11, Township 5 South, Range 3 East, Boise Meridian, and the pumping plant of the District to be installed and situate in said concrete outlet works of the Power Company in C. J. Strike Dam;

(c). That it will and does hereby grant unto the District and to Bennetts a right of way from said outlet works in the C. J. Strike Dam westerly through the lands of Idaho Power Company where such District Canal shall be constructed, through lot 1 in Section 34 and the northeast quarter of the northeast quarter and lots 1 and 2 in Section 35, Township 5 South, Range 3 East, Boise Meridian, for the District Canal and the construction, operation, and maintenance of such canal, and that it will and does hereby give unto the District the right, privilege and license to construct, install, operate and maintain pumps and a pumping plant at said concrete outlet works in C. J. Strike Dam to pump and lift the water to be diverted therefrom to the 2,553-foot elevation level and into the District Canal and to alter the design of said concrete outlet works in such manner deemed most suitable for the needs of the District and of Bennetts for the diversion of their said respective water rights from said C. J. Strike Reservoir, PROVIDED, HOWEVER, that the design of said pumping plant and the construction

Attachment 1e

and installation thereof at the said outlet work in the C. J. Strike Reservoir shall be subject to the approval of the Power Company; and the Power Company further agrees that the District and Bennetts shall have the right to regulate the flow of water into the District Canal at all times from March 15th to October 31st in each year hereafter;

(f). That it will furnish, without charge, cost or expense to the District and to Bennetts, all electric power required for the operation of the pumps and pumping plant in the said concrete outlet works in the said dam at all times hereafter;

9. IT IS UNDERSTOOD AND AGREED by and between the Power Company and the District and Bennetts that the diversion of irrigation water from the C. J. Strike Reservoir into the District Canal shall be done and controlled in the following manner:

The Power Company has built an adjustable gate in the said concrete outlet works for the regulation of water flow therefrom, and the District and Bennetts shall be solely responsible for the control and operation of such gate and the opening and closing thereof to permit the flow of water to supply the water rights of the District and Bennetts into the District Canal, and the District and Bennetts shall be solely responsible for the operation of the pumps and pumping plant to pump water from the C. J. Strike Reservoir into the District Canal to supply the said water rights of the District and of Bennetts when the

elevation of the water in said reservoir falls below the 2453-foot elevation level and the District and Bennetts shall be solely responsible for the regulation of the water flow through such outlet works, and the Power Company shall have no obligation to adjust the gate in such outlet works nor the flow of water, and should the Power Company at any time adjust or control the flow of water at the request of the District or of Bennetts such action by the Power Company shall be without liability on the part of the Power Company and shall not obligate the Power Company to continue to adjust or control such gate thereafter.

10. THE DISTRICT AND BENNETTS AGREE WITH THE POWER COMPANY AND WITH EACH OTHER AS FOLLOWS:

(a) That the District and Bennetts shall construct and thereafter maintain and operate the canal to be known as, and herein referred to as, the "District Canal", from the said outlet works in C. J. Strike Dam westerly to the point of diversion of the Bennett Canal, capable of carrying the irrigation water herein provided for the District and Bennetts, and to construct and maintain the said access road bridge.

(b). Bennetts agree to construct and thereafter maintain and operate the diversion canal to be known as the "Bennett Canal" from the diversion point therefor in the District Canal to the lands of Bennetts lying between the District Canal and Snake River, and to construct the diversion works in the District Canal for the Bennett Canal.

(c). The District agrees to construct and install the pumping plant and pumps at the outlet in C. J. Strike Dam and

to construct the District Canal from the point of diversion of the Bennett Canal, and the pumping plant to be constructed and installed in the north half of Section 11, Township 5 South, Range 3 East, Boise Meridian, and bridges across such canal westerly of the diversion of the Bennett Canal. Such canal shall be constructed by the District so as to be capable of carrying the irrigation water provided for the District.

(d). Bennetts agree to pay the sum of Two Thousand Five Hundred Dollars (\$2,500.00) toward the cost of construction of their portion of the District Canal from the outlet in G. J. Strike Dam to the Bennett diversion in such Canal, the cost of the diversion works in such canal to the Bennett canal, and the cost of the Bennett Canal to the Bennett lands.

(e). The Idaho Power Company agrees to pay and contribute the said sum of Seventy-five Thousand Dollars (\$75,000.00) which shall be devoted first to the payment of the balance over and above the amount contributed by Bennetts of the cost of construction of the Bennett portion of the District Canal from the outlet works in the G. J. Strike Dam to the diversion point of the Bennett Canal and the cost of the construction of the access road bridge and the cost of the diversion works in the District Canal for the Bennett Canal and the cost of the Bennett Canal, and secondly to the payment of the cost of the construction of the remainder of the District Canal, and the construction and installation of said pumping plants and pumps and the costs of bridges over such canal. All other costs of the construction of the District Canal, pumping plants and bridges shall be paid by the District.

(f). The cost of maintaining and operating the District Canal from the outlet in C. J. Strike Dam to the diversion point of the Bennett Canal therefrom and the said access road bridge shall be paid seven and one-third percent ($7\frac{1}{3}\%$) by Bennetts and ninety-two and two-thirds percent ($92\frac{2}{3}\%$) by the District. All cost of maintaining and operating the Bennett Canal and the diversion works therefor in the District Canal shall be paid by Bennetts. All costs of maintaining and operating the remainder of the District Canal and the costs of operating and maintaining the pumping plant at the outlet works in the C. J. Strike Dam (except the electric power therefor) and pumping plant of the District to be installed in said north half of said Section 11, and the cost of maintaining all other bridges over the District Canal shall be paid by the District.

(g). Such canals shall be constructed and maintained in such a manner as to prevent and avoid unreasonable wastage and leakage of water therefrom in accordance with good irrigation practice.

(h). The District and Bennetts agree to take the steps as will be necessary to change their respective points of diversion on Snake River for their respective water rights for irrigation purposes hereinbefore specified to the said outlet works in the Power Company's said C. J. Strike Dam.

(i). The District and Bennetts agree to obtain all necessary rights of way for the construction of the District Canal from the westerly boundary of the lands of the Power Company to the diversion point for the Bennett Canal and the District

Attachment 1/2

agrees to obtain a necessary rights of way for the construction of the remainder of the District Canal and also to obtain for the Power Company any necessary easements for any distribution lines necessary for electric service to the District's pumping plant in said north half of Section 11.

(j). The District agrees to obtain the approval of the Power Company to the design, construction and appearance of the structures, canal, bridge and other works to be placed upon the Power Company's land and dam, and the Power Company agrees not to unreasonably withhold its approval to such design, construction and appearance, and the District agrees to level the material removed from the canal and structures, and to maintain the structures, canal, bridge and other works in a neat appearing and safe operating condition, and so as not to interfere with or endanger said dam or Power Company's structures.

(k). It is agreed that the Power Company shall have the right to have and maintain an inspector present during the construction and installation of the pumps and pumping plant at the concrete outlet works in G. J. Strike Dam, at its own expense.

11. Each the District and Bennetts agrees with the Power Company as follows: The District agrees that the one hundred twenty-seven (127) cubic feet per second of flow of irrigation water of the District under this agreement shall be used only for irrigation of lands within the boundaries of the District as such boundaries may hereafter exist from time to time; [Bennetts agree that the eleven (11) cubic feet per second of irrigation water of Bennetts covered by this agreement may be used for the irrigation of any lands lying between the District Canal and Snake River but not on lands lying ^{north of} above the District Canal.]

Attachment

12. IT IS FURTHER AGREED:

(a). That the installation, operation and maintenance of the pumps and outlet works by the District in the C. J. Strike Dam shall be by the District as licensee;

(b). That the District Canal from the outlet works in C. J. Strike Dam to the diversion point for the Bennett Canal and the access road bridge shall be owned seven and one-third percent ($7\frac{1}{3}\%$) by Bennetts and ninety-two and two-thirds percent ($92\frac{2}{3}\%$) by the District.

(c). That the remainder of such District Canal and all pumping plants and installations therefor and all other bridges across such canal shall be owned by the District.

(d). That the Power Company shall be under no obligation to maintain the water level in said reservoir at any elevation level above the 2450-foot elevation level and may vary the water elevation above such level without liability to the District or to Bennetts at any time and from time to time.

(e). The Power Company will furnish power at charge to each Bennetts and the District power to operate their respective presently existing pumps for a total period of not to exceed six (6) weeks in the year 1953 for purposes of wetting down the ditches and for any necessary irrigation water. Operation of the pumps of Bennetts for any period in any day shall be counted as a full day in computing the six-weeks period. Operation of the pumps of the District for any period in any day shall be counted as a full day in computing the six-weeks period for the District pumps. If the District uses its pumps in excess of six weeks in the year 1953, then the District shall immediately pay the Power Company, at the prescribed rates, for all power used during such

Attachment 1K

six-weeks period, and shall pay for all additional power used. If Bennetts use their pumps in excess of six weeks in the year 1953, then Bennetts shall immediately pay the Power Company, at the prescribed rates, for all power used during such six-weeks period and shall pay for all additional power used by Bennetts in the year 1953 for the operation of such pumps;

(f). That the Power Company may vary and fluctuate the flow of the river downstream from the C. J. Strike Dam by peaking operations at all times and from time to time free and clear of any claims of damage or liability for shortage of water or loss of crops, by reason of such fluctuation or variation in the flow of the river, from any of the parties hereto, or the landowners in the District.

13. Each, the District and Bennetts, agrees with the Power Company as follows:

(a). That it, he or they, as the case may be, will use the water provided for hereunder, in an economical and husband-like manner and without unnecessary waste and shall take only such portions of their said water, 127 cfs and 11 cfs, respectively, as shall be needed for irrigation requirements up to such party's maximum amount hereinbefore set forth, and will not unnecessarily waste or spill, or permit such wasting or spilling of any such water; and that any and all water not being used or required for irrigation purposes shall inure to the benefit of the Power Company for use in and through its power plant under and as a part of its project water rights.

14. The District and Bennetts jointly and severally agree

Attachment 12

with the Power Company to construct, maintain and operate the District Canal from the outlet works in G. J. Strike Dam to the diversion point of the Bennett Canal in accordance with good irrigation practice, so as to prevent and avoid unreasonable wastage and leakage of water therefrom;

The District agrees to construct, maintain and operate the remainder of the District Canal and the District's water delivery and distribution system in accordance with good irrigation practice so as to prevent and avoid unreasonable wastage and leakage of water therefrom.

Bennetts agree with the Power Company to construct, maintain and operate the Bennett Canal and the water delivery and distribution system of the Bennetts in accordance with good irrigation practice, so as to prevent and avoid unreasonable wastage and leakage of water therefrom.

The Power Company shall not be responsible for any loss or damage, of any kind or nature whatsoever, occurring to either Bennetts or the District or to any landowners in the District, including damages to lands or crops, or any other direct, proximate or remote damages occurring or resulting from the construction, operation or maintenance of the District Canal or the Bennett Canal or the pumps and pumping plants in such canal, so long as the Power Company provides sufficient water in its reservoir at or above the 2450-foot elevation level for the diversion of the said irrigation water of the District and Bennetts into the District Canal from said G. J. Strike Reservoir and electric power for the operation of the pumps of the District at the outlet works at the G. J. Strike Dam.

Attachment 1m

15. In consideration of this agreement entered into with the Power Company, the District in its own behalf and in behalf of its landowners and water users, jointly and severally waives and hereby releases and discharges the Power Company from any and all claims or possible claims for damages or liability of any sort or description which have or may have occurred prior to the date of this agreement from the fluctuation or claimed fluctuation of the waters of the Snake River, and Bennetts in their own behalf hereby release and discharge the Power Company from any and all claims of Bennetts against the Power Company for damages by reason of the fluctuation of the waters of Snake River. Bennetts particularly reserve the right to any damages to their lands caused or which may hereafter be caused by seepage water from G. J. Strike Reservoir.

16. No party shall be considered to be in default of any obligation or be liable or responsible for any loss or damage for violating the terms of this agreement if prevented from fulfilling such obligation by reason of uncontrollable forces, including acts of God and the public enemy, or from accident, war, sabotage, water shortage, explosion, fire, earthquake, restraint by court or public authority, or other cause which by exercise of foresight and due diligence such party could not have reasonably been expected to avoid, except as provided in paragraph 16. Such party shall exercise due diligence, however, to remedy such cause or remove such inability with all reasonable dispatch.

17. IT IS UNDERSTOOD AND AGREED that failure by the District or Bennetts to perform any of the covenants herein contained shall not be construed to give the Power Company the right to refuse or fail to make water available to such parties as herein provided, and that the rights of the Power Company, in the event of

Attachment 17

breach or failure to perform any of the provisions hereof by such parties, shall be limited to injunctive relief, damages, or such other equitable or legal measures and remedies as may be enforced in a court of competent jurisdiction.

18. In consideration of this agreement entered into with the Power Company, the District and Bennetts each in its own behalf and in behalf of its members and landowners, jointly and severally waive and hereby release and discharge the Power Company from any and all claims for damages or liability of any sort or description which may arise in the event the District Canal Parties fail, for any reason whatsoever, to construct, and/or thereafter fail to maintain and operate, the District Canal referred to in paragraphs 10(a) or 10(b) hereof, and it is further understood and agreed that this contract constitutes a complete release of any obligation or duty which the Power Company may have now, or in the future, to maintain the water level in Snake River below G. J. Strike Dam sufficient to reach the diversion points on each the District and Bennetts at their respective pumping plants on the north bank of Snake River at the locations hereinbefore specified.

19. Any notice given to the Power Company hereunder shall be given or mailed, in writing, to the Power Company's President or General Manager, at 1220 Idaho St., Boise, Idaho; and,

Any notice given to Snake River Irrigation District shall be given or mailed, in writing, to the District at Grand View, Idaho, or to such person or address as the District shall by notice in writing hereafter designate; and,

Any notice given to Bennetts shall be given or mailed in writing,

to R. H. Bennett & Mountain Home, Idaho, or such person or address as Bennetts may hereafter by notice in writing designate.

20. This agreement and the respective rights and obligations hereunder shall inure to the benefit of and be binding upon the respective successors and assigns of the parties.

IN WITNESS WHEREOF, the Power Company has hereunto caused its corporate name to be subscribed and its corporate seal to be affixed by its officers first thereunto duly authorized by resolution of its Board of Directors, and the District has hereunto caused its corporate name to be subscribed and its corporate seal to be affixed by its officers first thereunto duly authorized by resolution of its Board of Directors, and the Bennetts have hereunto subscribed their names, all as of the day and year herein first above written.

(SEAL)

ATTEST:

A. J. [Signature]
Secretary

IDAHO POWER COMPANY

By

[Signature]
President

(SEAL)

ATTEST:

W. J. [Signature]
Secretary

SNAKE RIVER IRRIGATION DISTRICT

By

[Signature]
Director and President

[Signature]
Director

[Signature]
Director

R. H. Bennett
R. H. Bennett

Grace J. Bennett
Grace J. Bennett

Attachment 1/2

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

On this 23rd day of December, in the year 1952, before me, the undersigned, a Notary Public in and for said State, personally appeared T. E. Roach, known to me to be the President of Idaho Power Company, the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

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


Kenneth L. Swartz
Notary Public for the State of Idaho,
Residing at Boise, Idaho.

STATE OF IDAHO,)
COUNTY OF OWNEE,) ss.

On this 15 day of December, in the year 1952, before me, the undersigned, a Notary Public in and for said State, personally appeared Thomas Collett, known to me to be the President and a director of, and Morgan Shaw and Fred Korner, known to me to be directors of, the Snake River Irrigation District, the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

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


T. J. Johnson
Notary Public for the State of Idaho,
Residing at Grand River, Idaho.

Secretary of Mountain Home, Idaho
My Commission Expires Oct. 15, 1953

Attachment 12

STATE OF IDAHO,)
COUNTY OF ELMORE,) ss.

On this 16 day of December, in the year 1952, before me, the undersigned, a Notary Public in and for said State, personally appeared R. H. Bennett and Grace J. Bennett, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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


Notary Public for the State of Idaho,
Residing at Mountain Home, Idaho.

Attachment In

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 2-2053

NAME AND ADDRESS: J R SIMPLOT CO
C/O RON GRAVES
999 MAIN ST STE 1300
PO BOX 27
BOISE ID 83707

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 4.220 CFS

PRIORITY DATE: 02/22/1946

POINT OF

DIVERSION: T04S R02E S36 NENENE Lot 1 Within ELMORE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	4.220 CFS

PLACE OF USE: IRRIGATION in ELMORE County

T04S R02E S25 Lot 1 SWSW	28.00	T04S R02E S25	SESW	40.00
T04S R02E S25 NESE	15.00	T04S R02E S25	SWSE	40.00
T04S R02E S25 SESE	38.00	T04S R02E S36 Lot 1 NWNE		19.00
T04S R02E S36 Lot 2 NENW	31.00			

211 ACRES TOTAL

Use of this right with Right No. 2-2118 is limited to the irrigation of a combined total of 252 acres in a single irrigation season.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

The following rights are also diverted through point of diversion described above: 2-76, 2-2139, and 2-2118.

Place of use is within the area served by Snake River Irrigation District.

Instrument # 408679
Elmore County, Idaho
11:41am Jul. 28, 2009
For: SIMPLOT
No. of Pages: 3 Fee: \$9.00
MARSA PLUMMER, Recorder
Deputy: DLE

IDI- 33181

WATER RIGHT QUITCLAIM DEED

THIS INDENTURE, made this eleventh day of June, 2009, between the UNITED STATES OF AMERICA, acting by and through the Department of the Interior, Bureau of Land Management, Idaho State Office, hereinafter called the Grantor, and the J. R. Simplot Company, hereinafter called the Grantee.

WITNESSETH that the Grantor, for good and valuable consideration, the receipt whereof is hereby acknowledged, does convey, remise, release, and forever quitclaim unto the Grantee, and its successors and assigns, all of those portions of that certain Idaho Department of Water Resources Water Right Number 2-2053 appurtenant to the following described real property situated in the County of Elmore, State of Idaho, to wit:

A parcel of land being a portion of the SW 1/4 of Section 25 and a portion of the NW 1/4 of Section 36, T. 4 S., R. 2 E., B.M., Elmore County, Idaho and more particularly described as follows:

Commencing at a stone monument marking the West 1/4 corner of said Section 25, which bears South 00°42'08" West 2602.45 feet from the Northwest corner of said Section 25; thence along the West boundary of said Section 25

South 00°39'27" West 1520.91 feet to an iron pin, said point being the POINT OF BEGINNING; thence leaving said West boundary and along the existing fence line the following courses and distances:

North 65°02'10" East 96.04 feet to an iron pin; thence

South 63°28'30" East 242.55 feet to an iron pin; thence

South 64°27'23" East 206.49 feet to an iron pin; thence

South 65°08'56" East 920.69 feet to an iron pin; thence

South 02°12'04" East 1379.25 feet to an iron pin on the North bank of the Snake River; thence along said North bank the following courses and distances:

North 57°05'00" West 585.90 feet to a point; thence

North 43°06'37" West 423.00 feet to a point; thence

North 40°08'09" West 657.06 feet to a point; thence

North 36°59'06" West 300.35 feet to an iron pin on said West boundary of Section 25; thence along said West boundary

North 00°39'27" East 552.58 feet to the POINT OF BEGINNING;

Containing 33.69 acres, more or less.

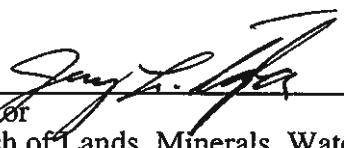
The aforementioned water right is conveyed hereby and the real property described above shall not be conveyed hereby and shall continue to be owned by the Grantor.

Quitclaim No. ID-2009-0001

Attachment 3

TO HAVE AND TO HOLD, all and singular, all tenements, hereditaments and appurtenances belonging to said water right, unto the said Grantee, its successors and assigns, forever.

IN TESTIMONY WHEREOF, the United States of America has executed this quitclaim deed as of this eleventh day of June, 2009.



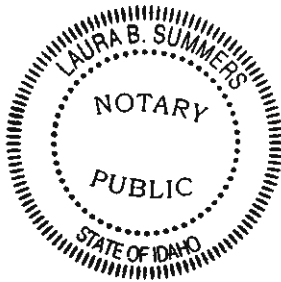
Jerry L. Taylor
Chief, Branch of Lands, Minerals, Water Rights
Resource Services Division

Quitclaim No. ID-2009-0001

Attachment 3a

STATE OF IDAHO)
) s.s.
COUNTY OF ADA)

On this twelfth day of June, 2009, personally appeared before me, Jerry L. Taylor, whose identity is personally known to me and who, being duly sworn, did say that he is the Chief, Branch of Lands Minerals and Water Rights, Resource Services Division of the U. S. Department of the Interior, Bureau of Land Management, Idaho State Office, and that he executed the foregoing instrument by authority of and in behalf of the United States of America; and he acknowledged said instrument to be the act and deed of the United States of America.



Laura B. Summers
Notary Public in and for the State of Idaho
Residing at: Boise, Idaho
Commission expires: April 25, 2014

Quitclaim No. ID-2009-0001

Attachment 3b

WARRANTY DEED

Bryant, Ernest A. & Gloria
Simplot Pers. #214

GRANTOR, J. R. SIMPLOT, as Trustee, J. R. SIMPLOT SELF-DECLARATION OF REVOCABLE TRUST, established by written instrument dated December 21, 1989, and registered in the Fourth Judicial District of the State of Idaho, Ada County, as No. 3T-788, of 999 W. Main Street, Boise, Ada County Idaho 83702, for Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto **J. R. SIMPLOT COMPANY**, a Nevada corporation ("Grantee"), of 999 W. Main Street, Suite 1300, Boise, Idaho 83702, and to Grantee's successors and assigns forever, all of that certain real property located in Elmore County, Idaho, described on Exhibit "A" attached hereto and incorporated herein.

Together with all improvements, fixtures, water, water rights, water stock and water stock rights, ditches, ditch rights, easements, hereditaments and appurtenances, specifically including, but not limited to, all mineral rights, hydrocarbon rights, geothermal rights, grazing rights and any and all additional rights arising from or related to ownership of said real property, free and clear of all encumbrances, EXCEPT for General taxes for the year 1993, which are a lien and are not yet due or payable, and SUBJECT TO the following:

1. Right of Way recorded May 3, 1910 in Book 1 of Transcribed Records of Ada County at page 106.
2. Easement recorded December 20, 1950 in Book 40 of Miscellaneous Records at page 443.
3. Agreement recorded December 26, 1952 in Book 28 of Agreements and Contracts at page 505.
4. Easement recorded September 4, 1958 in Book 42 of Miscellaneous Records at page 52.
5. Reservation as disclosed in Patent recorded June 10, 1960 in Book 20 of Patents at page 140.
6. Easement recorded July 18, 1962 as Instrument No. 113901.
7. Easement recorded July 29, 1966 as Instrument No. 129657.
8. Rights as disclosed in Patent recorded April 15, 1968 as Instrument No. 136148.
9. Easement recorded December 31, 1970 as Instrument No. 146616.
10. Mortgage dated May 12, 1992, executed by Ernest A. Bryant, III, as Mortgagee; and J. R. Simplot, as Trustee, J. R. Simplot Self Declaration of Revocable Trust, as Mortgagor, recorded May 18, 1992 as Instrument No. 268624.
11. Easement recorded May 25, 1978 as Instrument No. 181210.
12. Easement recorded July 11, 1984 as Instrument No. 223349.

All as contained in the records of the Elmore County Clerk and Recorder, Elmore County, Idaho.

Grantor, for itself, its successors and assigns, does hereby covenant, warranty and shall defend the quiet and peaceable possession of said premises by the Grantee and its successors and assigns forever against the lawful claims of all persons. As between Grantor and Grantee this conveyance shall be effective as of November 19, 1993 regardless of the date this document is recorded.

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

IN WITNESS WHEREOF, Grantor has hereunto subscribed its name to this instrument as of the 29th day of November, 1993.

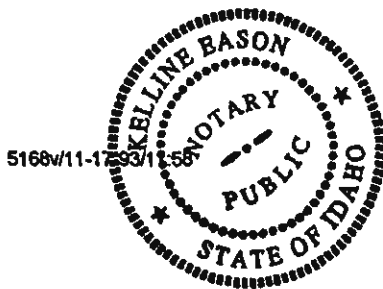
**J. R. SIMPLOT SELF DECLARATION
OF REVOCABLE TRUST**

By J. R. SIMPLOT, Trustee

Idaho
STATE OF ARIZONA)
Ada) ss.
County of Maricopa)

On this 14th day of November, 1993, before me, a Notary Public in and for said State, personally appeared J. R. Simplot, as Trustee of the J. R. Simplot Self Declaration of Revocable Trust, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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



Notary Public for Arizona
Residing at: Elise Idolo
My Commission Expires: 10-13-98

278419

ELMORE COUNTY, IDAHO, ss
Request of _____

GUARANTY TITLE, INC.

Time 3:36 PM
Date January 11, 1994
Boat OK
Page _____

DOLORES ROBISON

By Marla H. Becker
Deputy

Fee 19.00

WARRANTY DEED -2

Attachment 3d

EXHIBIT A

Township 5 South, Range 4 East, Boise Meridian, Elmore County, Idaho.

SECTION 28: SW $\frac{1}{4}$ SW $\frac{1}{4}$

SECTION 29: SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{4}$ SW $\frac{1}{4}$, Lot 1

SECTION 30: Lots 1, 2, 3 and 4, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, the SW 50 acres of the W $\frac{1}{2}$ NE $\frac{1}{4}$ more particularly described as follows:

Commencing at the NW corner of said W $\frac{1}{2}$ NE $\frac{1}{4}$; thence South along the West boundary line of the W $\frac{1}{2}$ NE $\frac{1}{4}$ a distance of 165 feet to a point; thence running in a Southeasterly direction to a point on the East boundary line of said W $\frac{1}{2}$ NE $\frac{1}{4}$, said point being 825 feet North of the SE corner of said W $\frac{1}{2}$ NE $\frac{1}{4}$; thence South along said East boundary line a distance of 825 feet to the SE corner of said W $\frac{1}{2}$ NE $\frac{1}{4}$; thence West along the South boundary line of said W $\frac{1}{2}$ NE $\frac{1}{4}$ to the center of said Section 30; thence North along the West boundary line of said W $\frac{1}{2}$ NE $\frac{1}{4}$ to the point of beginning.

SECTION 32: Lots 1, 2, 3 and 4

SECTION 33: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Lot 4

SAVE AND EXCEPT those portions of Lot 1, Section 32 and Lot 4, Section 33, Township 5 South, Range 4 East, Boise Meridian, Elmore County, Idaho, deeded to the State of Idaho Department of Fish and Game, as disclosed in Quitclaim Deed recorded in Book 32 at Page 232, records of Elmore County.

TOGETHER with all water rights, licenses, permits and irrigation district or water company shares appertaining to the aforesaid premises or any portion thereof, including but not limited to 610 shares of the Snake River Irrigation District (110 assessable shares and 500 nonassessable shares); and all irrigation equipment, sprinklers, pumps and fixtures located upon said premises.

5170v/11-17-93/1:15

Attachment 3e

Attachment #7b



Attachment #7b

