

Ronald N. Graves, Trustee
J. R. Simplot Self-Declaration of
Revocable Trust
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RECEIVED
MAY 18 2009
DEPARTMENT OF
WATER RESOURCES

**BEFORE THE DIRECTOR
OF THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

	)	J. R. SIMPLOT SELF-
	)	DECLARATION OF
IN THE MATTER OF THE PRELIMINARY	)	REVOCABLE TRUST
ORDER DENYING REQUEST FOR	)	PETITION FOR
EXTENSION OF TIME FOR PERMIT	)	RECONSIDERATION OF
NO. 51-7346	)	IDWR'S PRELIMINARY
	)	ORDER OF MAY 4, 2009

The J. R. Simplot Self-Declaration of Revocable Trust ("Simplot Trust") respectfully requests the Idaho Department of Water Resources ("IDWR") to reconsider its Preliminary Order dated May 4, 2009 denying the application for extension of time filed by the Simplot Trust on April 17, 2009 ("Preliminary Order") for the following reasons:

1. The Simplot Trust owns several senior groundwater rights in the Bruneau Valley and surrounding area, some of which are within the Bruneau-Grandview Groundwater Management Area. It is inevitable that should the IDWR decide to begin curtailing the use of groundwater by order of water right priority to manage the aquifer, many other water right holders who are junior to the rights held by the Simplot Trust will need to be curtailed before the rights of the Simplot Trust are affected due the seniority of the Simplot Trust's water rights.
2. The Bruneau Hotsprings Snail Committee ("BHSS") is a collection of local, state and federal agencies including representatives of the State of Idaho Office of Species

Conservation, the State of Idaho Department of Fish & Game, the State of Idaho Department of Water Resources, the United States Fish & Wildlife Service and the Idaho Association of Soil Conservation Districts. An objective of the BHSS is to promote projects that reduce groundwater withdrawals from the area. In cooperating with the BHSS, Water Conservation Project, Contract #2000-1 was signed by the Simplot Trust on January 31, 2000 and by the State of Idaho Department of Agriculture on February 7, 2000. This Contract, provided the funding to construct a pump station to divert water from the Bruneau River for irrigation purposes in accordance with IDWR Permit No. 51-7346. A pump station was constructed in 2000 and water (when available) has been diverted from that pump station since construction. Due to the junior priority of IDWR Permit No. 51-7346, water can only be diverted during the seasonal high spring flows in the Bruneau River.

3. Water cannot be diverted under permit no. 51-7346 throughout the entire irrigation season because of the junior priority date permitted under 51-7346. However, after constructing the pump station a substantial volume has been diverted, when available, to substitute a portion of the annual volume that would otherwise be pumped from wells owned by the Simplot Trust. Since the use of this pump station began, 4,875 acre feet have been diverted to meet a portion of the irrigation requirements for approximately 800 acres of farmland owned by the Simplot Trust out of the total 1,061 acres permitted under permit no. 51-7346.
4. The first pump station was a success in providing a substitute water source for a portion of the Simplot Trust's groundwater irrigation requirements and achieving the BHSS objectives of conserving groundwater. In view of the positive results from the first pump station, a second pump station to divert the balance of the water permitted under 51-7346 was proposed by the Office of Species Conservation in 2005. The Simplot Trust expressed its interest in cooperating in the construction of a second pump station to further the mutual objectives of the Simplot Trust and the Local, State and Federal agencies. However, in February, 2005 the Simplot Trust was informed that funding was not available.

5. After 2005, the BHSS continued to monitor groundwater levels in the local area and provide funding for the construction of additional groundwater conservation measures. As a result of these water conservation projects, the BHSS has advised the Simplot Trust that it believes the local groundwater conditions may be improving. In 2008, the Simplot Trust was contacted to determine if the Simplot Trust would be interested in a second water conservation project. Although the Simplot Trust's senior water right position in no way compels it to participate, it decided to explore the options to accommodate this request as it did the previous request. The Simplot Trust expressed its willingness to cooperate and restated its willingness to participate in the construction of the second pump station to make use of the balance of the water under permit no. 51-7346.
6. The Simplot Trust filed its request to extend the development period under IDWR permit no. 51-7346. If granted, the extension would provide time for the Simplot Trust to apply for an amendment to permit no. 51-7346 in an attempt obtain authorization for the diversion of water from the proposed second pump station.

Argument

The Grandview-Bruneau Groundwater Management Area was created by the Director of the IDWR on October 29, 1982 due to increased and projected increases in ground water withdrawal and declines in spring flows from the geothermal aquifer system. The objective of the BHSS is to conserve groundwater in the Bruneau Valley in an attempt to reduce groundwater withdrawals in response to the stated concerns by the Director when Ordering the formation of the Groundwater Management Area. One available technique to reduce groundwater withdrawals within the management area is to substitute groundwater use with water from alternative sources. IDWR permit no. 51-7346, which allows the use of Bruneau River high spring flows, provides the opportunity to deploy this effective water management strategy.

Simplot respectfully submits to the IDWR that granting an extension to complete development under 51-7346 will not result in injury to other water right holders and will only

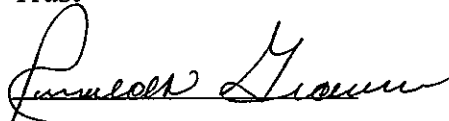
cause further delay to implementing this proven and successful water management strategy. In the event other water right holders have concerns over the installation of a second pump station, said water right holders will have an opportunity to protest the Application to Amend this permit once it is filed then advertised locally by the IDWR. The alternative of filing a new application for permit only serves to add additional cost and delay to the wise water use practices that are promoted by the local and regulatory interests who comprise the BHSS. As indicated by the attached letters in support of this petition by the State of Idaho Office of Species Conservation, the United States Fish & Wildlife Service and the Idaho Association of Soil Conservation Districts, there is considerable support among these agencies for a project that will further substitute surface water for groundwater when high spring river flows are available.

Conclusion

Because an extension of Permit No. 51-7346 will not injure other water right holders who will also have administrative remedies to address any perceived injury, will provide a useful means of conserving the groundwater resource and is consistent with wise water use management within a groundwater management area, the Simplot Trust requests that the Application to Extend Permit No. 51-7346 be approved to provide additional time to apply for the filing of a permit amendment and to construct a second point of diversion.

Respectfully submitted this 18^h day of May, 2009.

J. R. Simplot Self-Declaration of Revocable
Trust

A handwritten signature in dark ink, appearing to read "Ronald N. Graves", is written over a horizontal line.

By: Ronald N. Graves, Trustee

OFFICE OF SPECIES CONSERVATION

C.L. "BUTCH" OTTER
Governor



P.O. Box 83720
Boise, Idaho 83720-0195

NATHAN A. FISHER
Administrator

300 North Sixth Street, Suite 101
Boise, Idaho 83702

May 14, 2009

Jeff Peppersack, Chief
Water Allocation Bureau
Idaho Department of Water Resources
322 East Front Street
Boise, ID 83720

Re) OSC support for J.R. Simplot Revocable Trust's Petition for Reconsideration of Request for an Extension of Time to Provide Proof of Beneficial use of Water.

Dear Jeff:

The Governor's Office of Species Conservation (OSC) has participated in thermal water conservation projects in the recovery area of the Bruneau Hotsprings Snail (BHSS) since 2001. The purpose of this participation was to conserve thermal water for the Endangered Species Act (ESA) listed BHSS. The BHSS is dependent upon thermal springs and up-wellings in the Bruneau River for its survival.

Over one million dollars has been invested in water conservation projects resulting in excess of 21,000 acre feet of water savings. The pump station built under Idaho Department of Water Resources Water Right Permit Number 51-72346 was cooperatively financed between OSC and J.R. Simplot Co. This project has resulted in thermal water savings of 4,874 acre feet. Based upon these results, the OSC requests reconsideration of J.R. Simplot's request for an extension of time to provide proof of beneficial use of water. It is our hope that a 2nd pump station would provide additional water savings for BHSS conservation efforts.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "Nathan A. Fisher".

Nathan A Fisher
Governor's Office of Species Conservation

Jwb

Cc: Rayola Jacobsen



United States Department of the Interior
IDAHO FISH AND WILDLIFE OFFICE

1387 S. Vinnell Way, Room 368
Boise, Idaho 83709
Telephone (208) 378-5243
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MAY 10 2008

Jeff Peppersack, Chief
Idaho Department of Water Resources
Water Allocation Bureau
322 East Front Street, P.O. Box 83720
Boise, Idaho 83720-0098

Subject: U.S. Fish and Wildlife Service support for J.R. Simplot Revocable Trust's
Petition for Reconsideration of the Idaho Department of Water Resources
Denial of the Extension of Permit No 51-7346 (6205.4018)

Dear Mr. Peppersack:

The U. S. Fish and Wildlife Service (USFWS) is writing in support of the J. R. Simplot Revocable Trust's Petition for Reconsideration of the Idaho Department of Water Resources (IDWR) Denial of the Extension of Permit No. 51-7346 that authorizes the diversion of surface water from the Bruneau River. The USFWS has participated as part of an inter-agency Bruneau Hot Springsnail (BHSS) Coordination Committee to develop and implement thermal water conservation projects in the Bruneau area the past several years.

Recovery of the BHSS is dependent upon conserving the remaining thermal springs and outflows along the Bruneau River that provides its necessary habitat. Over the past several years, the USFWS, working cooperatively with other agencies and interested parties, has invested in voluntary water conservation projects that have already resulted in significant thermal groundwater savings. The J.R. Simplot Revocable Trust's proposed diversion of Bruneau River surface water would substitute the use of thermal groundwater that would otherwise be pumped, and would provide additional thermal groundwater savings for BHSS conservation efforts.

Thank you for your consideration of the petition for reconsideration for Permit Number 51-7346.

Sincerely,

Jeremy L. Foss, State Supervisor
Idaho Fish and Wildlife Office

TAKE PRIDE
IN AMERICA

**Idaho Association of Soil Conservation Districts
Bruneau River Soil Conservation District
P. O. Box 590
Bruneau, ID 83604**

**Duane La Fayette
Water Quality Resource Conservationist**

May 14, 2009

Jeff Peppersack, Chief
Water Allocation Bureau
Idaho Department of Water Resources
322 East Front Street
Boise, ID 83720

Re) Support for J.R. Simplot Revocable Trust's Petition for Reconsideration of Request for an Extension of Time to Provide Proof of Beneficial use of Water.

Dear Jeff:

The Idaho Association of Soil Conservation Districts and the Bruneau River Soil Conservation District has worked together with the Governor's Office of Species Conservation (OSC), the Natural Resources Conservation Service (NRCS) and the U.S. Fish and Wildlife Service to establish thermal water conservation projects within the Bruneau Hotsprings Snail (BHSS) recovery area, since 2001. The BHSS is an endangered species that depends on certain levels of thermal water in the aquifer in order to maintain their population levels. Since hot water wells used for agricultural production in the BHSS recovery area can potentially impact the thermal aquifer, thermal water conservation projects were developed to address this issue.

Over one million dollars has been invested in thermal water conservation projects in the BHSS recovery area that have resulted in water savings in excess of 21,000 acre feet. One excellent example of a successful thermal water conservation project is the pump station cooperatively financed between the J.R. Simplot Company and OSC (IDWR – Water Right Permit Number 51-72346). This project has saved over 4,875 acre feet of thermal water. Due to the excellent results of this project, we are requesting that you reconsider J.R. Simplot Company's request for an extension of time to provide proof of beneficial use of water. We believe that a second pumping station will result in an additional thermal water savings that will benefit the BHSS recovery effort.

Thank you for your time and consideration.

Sincerely,

Duane La Fayette