

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 51-7346	)	ORDER DENYING PETITION
IN THE NAME OF J. R. SIMPLOT SELF	)	FOR RECONSIDERATION
DECLARATION REVOCABLE TRUST	)	
_____	)	

This matter having come before the Idaho Department of Water Resources ("Department"), the Department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On May 4, 2009 the Department issued an Order Denying Request for Extension of Time to submit proof of beneficial use for Permit 51-7346. The request for extension sought additional time to construct a second pump station to divert water from the Bruneau River which would allow irrigation of more lands within the authorized place of use under the permit. The request was denied because the maximum extensions allowed under Section 42-204, Idaho Code for good cause had already been granted for the permit.

2. On May 18, 2009, J.R. Simplot Self Declaration Revocable Trust ("petitioner") filed a petition for reconsideration ("petition") asking the Department to reconsider the Order Denying Request for Extension of Time. The petition concludes that an extension will not injure other water right holders, will provide a means to conserve the ground water resources, and is consistent with wise water use management in the Ground Water Management Area.

3. The petition was accompanied by letters supporting the petition from the Idaho Office of Species Conservation, U.S. Fish and Wildlife Service and Idaho Association of Soil Conservation Districts.

CONCLUSIONS OF LAW

1. Section 67-5243(3), Idaho Code provides in pertinent part as follows:

Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a recommended order or a preliminary order within fourteen (14) days of the issuance of that order. The presiding officer shall render a written order disposing of the petition.

2. Section 42-204, Idaho Code provides for extensions of time to submit proof of beneficial use for specific cases involving delay in federal government approval, litigation which may bring the title to water into question, large irrigation projects (no less than

5000 acres), large reservoir projects, or permits held by the United States or the Idaho Water Resource Board. For other situations, Section 42-204 provides in pertinent part as follows:

5. In all other situations not governed by these provisions the department may grant one (1) extension of time, not exceeding five (5) years beyond the date originally set for completion of works and application of the water to full beneficial use, upon request for extension received on or before the date set for completion, provided good cause appears therefore.
3. The petitioner submitted a timely request and provided good cause for an extension; however, Section 42-204, Idaho Code only authorizes the Department to grant one extension for good cause. The Department does not have authority to provide additional extensions for good cause. Therefore, the Department must deny the extension.

ORDER

IT IS HEREBY ORDERED that the petition for reconsideration of the Order Denying Request for Extension of Time for Permit 51-7346 in the name of J. R. Simplot Self Declaration Revocable Trust is **DENIED**.

Dated this 21st day of May, 2009.



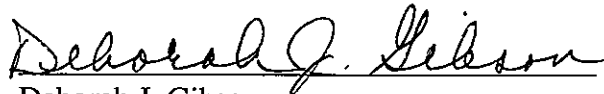
JEFF PEPPERSACK, Chief
Water Allocation Bureau

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of May, 2009, a true and correct copy of the above and foregoing document(s) described below was served by placing a true and correct copy in the U.S. Mail, Postage Prepaid to the following:

Document(s) Served: Order Denying Petition for Reconsideration, and Explanatory Information to Accompany an Order Denying Petition for Reconsideration.

J. R. SIMPLOT SELF DECLARATION REVOCABLE TRUST
PO BOX 27
BOISE ID 83707-0027


Deborah J. Gibson
Administrative Assistant