



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

April 25, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

J R SIMPLOT CO
C/O TERRY UHLING
999 MAIN ST STE 1300
PO BOX 27
BOISE ID 83707

RE: License No. 63-10012

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license. Also enclosed is a copy of the approved application for amendment.

The license 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 a party 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.

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 208-287-4947.

Sincerely,

Shelley W. Keen, Manager
Water Right Permits Section

Enclosure(s)

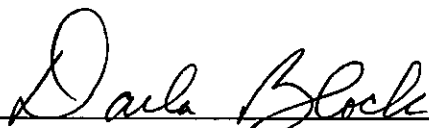
CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2008 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

63-10012

**J R SIMPLOT CO
C/O TERRY UHLING
999 MAIN ST STE 1300
PO BOX 27
BOISE ID 83707**

A handwritten signature in cursive script, reading "Darla Block", is written over a horizontal line.

**Darla Block
Technical Records Specialist**

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

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. **Note: the petition must be received by the department within this fourteen (14) day period.** 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 Water Resource 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).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.



J.R. SIMPLOT COMPANY 999 MAIN STREET BOISE, IDAHO 83702
P.O. BOX 27 BOISE, IDAHO 83707
(208) 336-2110 FAX (208) 389-7515

CORPORATE HEADQUARTERS

RECEIVED

APR 17 2008

DEPARTMENT OF
WATER RESOURCES

April 16, 2008

Ms. Michele Edl
Water Right Permits Section
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

RE: Water Right Permit Nos. 63-10012 and 63-10066

Dear Ms. Edl:

Enclosed with this letter is an Application for Amendment for each of the water right permits mentioned above. Also included is our check number 00853357 in the amount of \$100.00 which covers the required filing fee for each permit.

Please do not hesitate to contact me should you have any questions regarding the enclosed documents.

Sincerely,

Vic Conrad
by Su

Vic Conrad
Director
Land, Water & Asset Recovery



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

April 9, 2008

J R SIMPLOT
C/O TERRY UHLING
999 MAIN ST STE 1300
PO BOX 27
BOISE ID 83707

RE: Water Right Permit Nos. 63-10012 and 63-10066

Dear Permit Holder:

The Department of Water Resources sent you two Application for Amendment forms on March 4, 2008, for the above referenced permits. The amendments are required because the field examiner who verified the water use established in connection with your permits reported that one or more elements of your water use differs from the permits. As of this date the Department has not received a response.

If I do not receive the amendment within fourteen (14) days, I will assume you are no longer interested in obtaining water right licenses and your permits will be voided. In case the amendment forms I sent you have been misplaced, new ones are enclosed. Please note that a \$50 filing fee is required for each amendment for a total of \$100 due.

If you have any questions, please contact me as soon as possible at (208) 287-4946.

Sincerely,

Michele Edl
Associate Engineer
Water Right Permits Section

Enclosures



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

03/04/2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

J R SIMPLOT CO
C/O TERRY UHLING
999 MAIN ST STE 1300
PO BOX 27
BOISE ID 83707

RE: Water Right Permit No. 63-10012

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit. The examiner who verified your water use reported that certain elements of the permit have been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

Based on the examiner's report, the following elements were developed differently than described on your permit:

☒ Point(s) of Diversion

☒ Place(s) of Use

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it with the \$50.00 filing fee within 14 days.

If you have any questions, please call me at 208-287-4946.

Sincerely,

Michele Edl
Associate Engineer

Enclosure(s)

MEMORANDUM

Date: March 05, 2008
To: Water Right File 63-10066 and 63-10012
From: medl
Re: license review

Dan Nelson conducted the field exam for this permit and for 63-10012 during the same site visit. The two rights are appurtenant to the same property. 63-10066 is an application for industrial use from 4/1-11/30 at the same rate (2cfs) already licensed in 63-7218 for the season 12/1-3/31. In essence, 63-10066 extends the industrial use from a short season to year-round use.

63-10012 is for an additional 3cfs year round. The system capacity is greater than the permitted rates for either water right. The permitted rates will set the limits.

Dan had used GPS to pin down the locations of the 4 wells associated with these licenses and had created shape files for them. The GPS coordinates were no longer in the current projection but he was able to relocate the wells on area maps and recreated a shape file of them for me to use.

I discussed the POU with Dan and he agreed that the Canyon County taxlot shape was a good representation of the POU for both rights.

There are 4 wells which are PODs for both 63-10066 and 63-10012. Neither permit listed the entire POU found in the field exam nor the locations of all 4 PODs, so both will need amendments.

License 63-7218, issued in 1975, is a water right appurtenant to the same property. It had been mistakenly given a high annual volume through adjudication. At 2 cfs from 12/1-3/31, a volume of 1166 AF was not achievable. I manage around that error in these two ensuing rights, (63-10066 and 63-10012) by applying combined use conditions which include all three rights. Refer to the following page for a summary of the combined use conditions.

WR #	use	Rate(cfs)	season	Volume(af)	corrected Volume(af)	
63-7218	industrial	2.0	12/1-3/31	1166*	484	=2cfs*1.9835*122day
	irrigation	0.2	5/31-8/15	22.5		
	fire	3.4	1/1-12/31			
	Total	3.4		1188.5		
63-10066	industrial	2.0	4/1-11/30		964	=2cfs*1.9835*243day
					1448	sum industrial at 2 cfs yr-round
					1470.5	=1448+22.5 sum all use, yr-round
63-10012	industrial	3.0	1/1-12/31		1603	recommended total industrial
	domestic	not recommended				
					155	difference =1603-1448
all rights	industrial	5	1/1-12/31	1603.3		
	other	1.4		22.5		
		6.4		1625.8		

* impossible volume