

27-7294
J.R. SIMPLOT CO.
P.O. BOX 27, BOISE, ID
83707
Source: GROUNDWATER
Date Filed: 12-16-1981
Amount: 3.00 CFS
Diversion Point: NENE Sec 16
T 08S R 42E, CARIBOU Co.
Use: INDUSTRIAL (3.00
CFS) from 01-01 to 12-31
Place of Use: SENE Sec 15 T
08S R 42E
Diversion Means: PUMP,
MOTOR & PIPE

RE: PERM

DEAR PERM

ENCLOSED
ATTENTION

BE SURE TO
MEASURING
OF MEASURING
LIST OF MEAS
INSTALLATION

WE HAVE EN
READ THE I
DEVELOP THE

SINCERELY,

DAVID R. L
SUPERVISOR,

ENCLOSURE

By:

STATE OFF

☐ See att

By:

Affidavit of Publication

PUBLIC NOTICE

First Time Published

County of Caribou }
State of Idaho } ss.

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

11-7276

U.S. DEPT. OF AGRI.
FOREST SERVICE, FED-
ERAL BLDG., 324 25TH ST.,
OGDEN, UT 84401

Source: SPRING tributary to
SULFUR CANYON CREEK

Date Filed: 12-10-1981

Amount: 0.02 CFS 0.1 AC-FT

Diversión Point: SESE Sec 06
T 09S R 43E, CARIBOU Co.

Use: STOCKWATER (0.02
CFS) from 07-01 to 08-31
STOCKWATER STORAGE
(0.1 AC-FT) from 01-01 to 12-31
STOCKWATER FROM
STORAGE (0.1 AC-FT) from
07-01 to 08-31

Place of Use: SESE Sec 06 T
09S R 43E

Diversión Means: STOCK-
POND

11-7277

U.S. DEPT. OF AGRI.
FOREST SERVICE, FED-
ERAL BLDG., 324 25TH ST.,
OGDEN, UT 84401

Source: SPRING tributary to
TINCUP CREEK

Date Filed: 12-10-1981

Amount: 0.04 CFS 0.2 AC-FT

Diversión Point: SENW
Sec 04 T 05S R 44E

Use: STOCKWATER (0.02
CFS) from 06-01 to 10-31
STOCKWATER STORAGE
(0.1 AC-FT) from 01-01 to 12-31
STOCKWATER FROM
STORAGE (0.1 AC-FT) from
06-01 to 10-31

Place of Use: NWSE Sec 10 T
06S R 46E

Diversión Means: STOCK-
POND

POND

24-7146

U.S. DEPT. OF AGRI.
FOREST SERVICE, FED-
ERAL BLDG., 324 25TH ST.,
OGDEN, UT 84401

Source: SPRING tributary to
MILLER CREEK, SOUTH
FORK

Date Filed: 12-10-1981

Amount: 0.02 CFS 0.1 AC-FT

Diversión Point: SESW Sec 33
T 05S R 46E, CARIBOU Co.

Use: STOCKWATER (0.02
CFS) from 06-01 to 10-31
STOCKWATER STORAGE
(0.1 AC-FT) from 01-01 to 12-31
STOCKWATER FROM
STORAGE (0.1 AC-FT) from
06-01 to 10-31

Place of Use: SESW Sec 33 T
05S R 46E

Diversión Means: STOCK-
POND

24-7147

U.S. DEPT. OF AGRI.
FOREST SERVICE, FED-
ERAL BLDG., 324 25TH ST.,
OGDEN, UT 84401

Source: SPRING tributary to
TINCUP CREEK

Date Filed: 12-10-1981

Amount: 0.04 CFS 0.2 AC-FT

Diversión Point: SENW
Sec 04 T 05S R 44E

Use: STOCKWATER (0.02
CFS) from 06-01 to 10-31
STOCKWATER STORAGE
(0.1 AC-FT) from 01-01 to 12-31
STOCKWATER FROM
STORAGE (0.1 AC-FT) from
06-01 to 10-31

Place of Use: NWSE Sec 04 T
05S R 44E

Diversión Means: STOCK-
POND

24-7150

U.S. DEPT. OF AGRI.
FOREST SERVICE, FED-
ERAL BLDG., 324 25TH ST.,
OGDEN, UT 84401

Source: SPRING tributary to
TINCUP CREEK

Date Filed: 12-10-1981

Amount: 0.02 CFS 0.1 AC-FT

Diversión Point: NESW Sec 04
T 05S R 44E, CARIBOU Co.

Use: STOCKWATER (0.02
CFS) from 06-01 to 10-31
STOCKWATER STORAGE
(0.1 AC-FT) from 01-01 to 12-31
STOCKWATER FROM
STORAGE (0.1 AC-FT) from
06-01 to 10-31

Place of Use: NESW Sec 04 T
05S R 44E

Diversión Means: STOCK-
POND

27-7294

J.R. SIMPLOT CO.
P.O. BOX 27, BOISE, ID
83707

Source: GROUNDWATER

Date Filed: 12-16-1981

Amount: 3.00 CFS

Diversión Point: NENE Sec 16
T 08S R 42E, CARIBOU Co.

Use: INDUSTRIAL (3.00
CFS) from 01-01 to 12-31

Place of Use: SENE Sec 15 T
08S R 42E

Diversión Means: PUMP,
MOTOR & PIPE

27-7295

U.S. DEPT. OF AGRI.
FOREST SERVICE, FED-
ERAL BLDG., 324 25TH ST.,
OGDEN, UT 84401

Source: SPRING tributary to
DRY FORK

Date Filed: 12-10-1981

Amount: 0.04 CFS 0.2 AC-FT

Diversión Point: NWSE Sec 10
T 09S R 43E, CARIBOU Co.

Mark Steele

being first duly sworn on his
oath

Use: STOCKWATER (0.04
CFS) from 07-01 to 08-31
STOCKWATER STORAGE
(0.2 AC-FT) from 01-01 to 12-31
STOCKWATER FROM
STORAGE (0.2 AC-FT) from
07-01 to 08-31

Place of Use: NWSE Sec 10 T
09S R 43E

Diversión Means: STOCK-
POND

27-7296

U.S. DEPT. OF AGRI.
FOREST SERVICE, FED-
ERAL BLDG., 324 25TH ST.,
OGDEN, UT 84401

Source: SPRING tributary to
DRY FORK

Date Filed: 12-10-1981

Amount: 0.02 CFS 0.1 AC-FT

Diversión Point: SESW Sec 02
T 09S R 43E, CARIBOU Co.

Use: STOCKWATER (0.02
CFS) from 07-01 to 08-31
STOCKWATER STORAGE
(0.1 AC-FT) from 01-01 to 12-31
STOCKWATER FROM
STORAGE (0.1 AC-FT) from
07-01 to 08-31

any permit must be filed with the
Director of the Idaho Department
of Water Resources, 150 Shoup
Ave., Idaho Falls, Idaho 83402 on
or before JANUARY 18, 1982.

A. KENNETH DUNN

Director

Published Dec. 31, 1981, and
Jan. 7, 1982, in the Caribou
County Sun.

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident. No. _____
Conda Well #7

APPLICATION FOR PERMIT **APPROVED**

To appropriate the public waters of the State of Idaho

1. Name of applicant J. R. SIMPLOT COMPANY Phone (208) 336-2110
Post office address P. O. Box 27, Boise, Idaho 83707 Attn: R. N. Graves

2. Source of water supply Subterranean which is a tributary of _____

3. Location of point of diversion is NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 16 Township 8 S
Range 42 E. B.M. Caribou County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 3 cfs for Industrial purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 3 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. pump, motor and pipe.

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____
Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)
c. Proposed well diameter is 10 inches; proposed depth of well is 285 feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is five(5) years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 15 Township 8 S
Range 42 E. B.M.

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.

(5) If water is to be used for other purposes describe: Water to be used for domestic,
fire protection, and beneficiation of phosphate rock.

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

[illegible]

Total number of acres to be irrigated

c. Describe any other water rights used for the same purposes as described above.

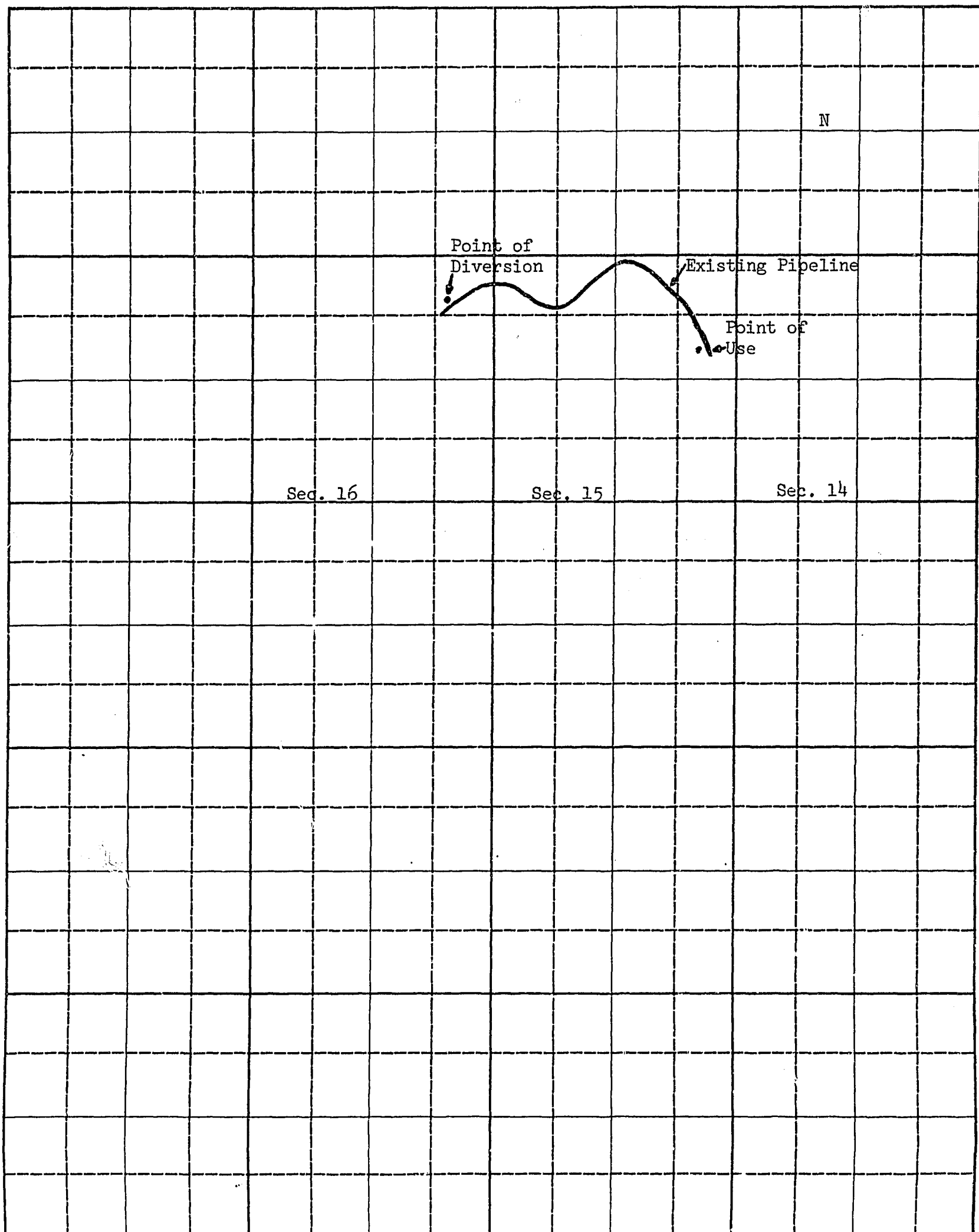
9. a. Who owns the property at the point of diversion Anaconda Company.

b. Who owns the land to be irrigated or place of use Anaconda Company.

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Lease Agreement.

10. Remarks

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

J. R. SIMPLOT COMPANY

Randall Hauer
(Applicant) Secretary

Proposed Priority 12/16/1981

Received by CW Date 12-16-81 Time 10:30 A

Preliminary check by HWT Fee \$ 85.00

Received by CW Date 12-17-81 # 20013

Publication prepared by CS Date 12-21-81

Published in Carroll County Sun

Publication dates 12-31-81 & 1-7-82

Publication approved CW Date 1-11-82

Protests filed by: None

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by EMC RC

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 27-7294, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before February 1, 19 87.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.
Water used under this permit if discharged into a natural channel shall meet Idaho Water Quality Standards.

Witness my hand this 18 day of February, 1982.

J. Glen Sayton
Chief, Operations Bureau

J. R. SIMPLOT COMPANY - CIVIL CAPITAL CENTER / 990 MAIN STREET
P.O. BOX 27 / BOISE / IDAHO 83707 / (208) 334-2110 / TELEX 344-602

RECEIVED

NOV 25 1981

DEC 1 1981

Department of Water Resources

State of Idaho
Boise Office

December 4, 1981

J. R. Simplot Company
P.O. Box 27
Boise, Idaho 83707

State of Idaho
Dep. **ATTENTION: Mr. Graves**
450 W. State Street
Bo. Dear Mr. Graves 5702

Gen Enclosed is the application for permit submitted by J. R. Simplot Company and check No. 92-6 in the amount of \$85.00. The application is being returned as incomplete. Item 4 should have listed separately, the amount of water diverted for each of the purposes (domestic, fire protection, and industrial). The map on Item 11 does not agree with the place of use given in Item 8a.1. Upon receipt of the corrected application for permit and returned filing fee, we will commence processing.

Please feel free to contact me if you have any questions.

Sincerely,

KEITH C. WILSON
Vice President and
Corporate Counsel

KEITH C. WILSON
Sr. Resource Agent

KCW:cw Conda

Enclosure

Attachment: Check No. 92-6

J. R. SIMPLOT COMPANY / ONE CAPITAL CENTER / 999 MAIN STREET / SUITE 1300
P.O. BOX 27 / BOISE, IDAHO 83707 / (208) 336-2110 / TELEX 368432

CORPORATE HEADQUARTERS

RECEIVED

DEC 1 1981

Department of Water Resources
Eastern District Office

RECEIVED

NOV 25 1981

Department of Water Resources

November 23, 1981

State of Idaho
Department of Water Resources
450 West State Street
Boise, Idaho 83702

Gentlemen:

Enclosed is an Application for Permit which has been
executed by J. R. Simplot Company and is being transmitted to
you for filing. A check covering your filing fee is enclosed.

Sincerely,

Ronald N. Graves

RONALD N. GRAVES
Vice President and
Corporate Counsel

RNG/jw
Enclosures

cc: Oral Staman - Conda

J. R. SIMPLOT COMPANY / ONE CAPITAL CENTER / 999 MAIN STREET / SUITE 1300
P.O. BOX 27 / BOISE, IDAHO 83707 / (208) 336-2110 / TELEX 368432

December 11, 1981

CORPORATE HEADQUARTERS

State of Idaho
Department of Water Resources
150 Shoup
Idaho Falls, Idaho 83401

ATTENTION: Keith C. Wilson
Senior Resource Agent

Gentlemen:

The enclosed Application for Permit has been amended and is being resubmitted to you for filing together with our check in the amount of \$85.00 covering your recording fee. If you have any further questions regarding the enclosed, please advise.

Sincerely,


RONALD N. GRAVES
Vice President and
Corporate Counsel

RNG/ljw
Enclosures

cc: Oral Stamen (w/encl.)

22-2294

J.R. SIMPLOT CO.

P.O. BOX 27, BOISE, ID 83707

Source: GROUNDWATER

Date Filed: 12/16/1981

Amount: 3.00 CFS

Diversion Point: NENE Sec 16 T 08S R 42E, CARIBOU Co.

Use: INDUSTRIAL (3.00 CFS) from 01/01 to 12/31

Place of Use: SENE Sec 15 T 08S R 42E

Diversion Means: PUMP, MOTOR & PIPE

January 4, 1982

RE: Application for Permit No. 27-7294 SIMPLOT

Gordon Hopson
Department of Health & Welfare
Division of Environment
150 North 3rd
Pocatello, Idaho 83201

Dear Mr. Hopson:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is January 18, 1982, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure



STATE OF IDAHO

DEPARTMENT OF HEALTH AND WELFARE

JAN 16 1982

Department of Health and Welfare
Eastern District Office

DIVISION OF ENVIRONMENT
150 North 3rd Avenue
Pocatello, Idaho
83201

15 January 1982

Ernest Carlson, Asst. Regl. Supervisor
Department of Water Resources
150 Shoup
Idaho Falls, Idaho 83401

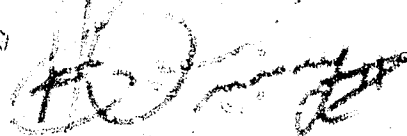
Re: Application #27-7294
(Caribou County)

Dear Mr. Carlson:

Review has been made of the subject application submitted
by J. R. Simplot Co., P.O. Box 27, Boise, for a permit to
appropriate the public waters of the State of Idaho
(subterranean source).

We have no comments to make at this time.

Yours very truly,


James A. Barry
Sr. Environmental Specialist

JAP/md
CC: Gordon Hopson

EQUAL OPPORTUNITY EMPLOYER

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

27 7294

INITIAL REVIEW BY: HWS

APPLICATION NUMBER: 27-7294

CHECK:

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Quantity of water and period of use.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☒ Yes ☒ No Field check required.
☒ Yes ☒ No Critical groundwater area.
☒ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☒ Yes ☒ No In form to receipt.

Field check by: _____

Date: _____

Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

- ☐ Idaho State Health Department.
☐ Idaho Fish and Game Department.
☐ Idaho Department of Lands.
☐ U.S. Bureau of Land Management.
☐ U.S. Forest Service.

Copies sent by: _____

Date: _____

☒ Other Health & Welfare

PROCESSING:

Div. of Environment

- ☐ Yes ☒ No Platted by: _____ Map No. _____
☐ Yes ☒ No Other rights on same place of use. _____
☒ Yes ☐ No In form for advertising. Jan 18, 1982
☐ Yes ☒ No Final date for protests: _____
☐ Yes ☒ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 1-11-82
☒ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.
☒ Recommendation & initial, recorded on application.
☐ Yes ☒ No Measuring device required.
☐ Yes ☒ No Access port required.
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what district? _____
☒ 12-16-1981 Date of priority recommended.
☒ Special conditions of approval or cover letter. _____

By: Ernest Carlson

Date: Jan 17, 1982

STATE OFFICE REVIEW:

return receipt w/ cover letter

SL/LO3

OIC, 0910

☐ See attached sheet for more information.

By: _____

Date: 2/17/82

RECEIVED

JAN 21 1982

Department of Water Resources

STATE OF IDAHO
A
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440

J.R. SIMPLOT COMPANY
P.O. BOX 27
BOISE, ID 83707

MARCH 02, 1982

RE: PERMIT NO. 27-7294

DEAR PERMIT HOLDER:

ENCLOSED IS A COPY OF YOUR APPROVED APPLICATION FOR PERMIT. WE DIRECT YOUR ATTENTION TO THE CONDITIONS OF APPROVAL ON THE FOURTH PAGE.

BE SURE TO NOTE THE SPECIAL CONDITION REQUIRING YOU TO INSTALL A MEASURING DEVICE, OR AN ACCESS PORT TO PROVIDE FOR THE INSTALLATION OF MEASURING EQUIPMENT BY THE DEPARTMENT. ENCLOSED PLEASE FIND A LIST OF MEASURING DEVICE OPTIONS, AND SPECIFICATIONS FOR THE INSTALLATION OF THE ACCESS PORT.

WE HAVE ENCLOSED A FORM ENTITLED "MAKING PROOF OF BENEFICIAL USE". PLEASE READ THE INSTRUCTIONS CAREFULLY SINCE YOU MUST TAKE FURTHER ACTION TO DEVELOP THIS PERMIT INTO A LICENSE.

SINCERELY,

DAVID R. TUTHILL, JR., P.E.
SUPERVISOR, WATER ALLOCATION SECTION

ENCLOSURE

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 27-7294 IN THE)
NAME OF J. R. SIMPLOT) ORDER OF REINSTATEMENT
_____)

WHEREAS, the Department has issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted on or before February 1, 1987; and,

WHEREAS, the Department notified the permit holder by certified mail that proof was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use; and,

WHEREAS, on December 11, 1986, the permit holder submitted a request for extension of time; and,

WHEREAS, on February 10, 1987, the Department advised the permit holder that the request for extension of time was denied and that the permit had lapsed; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within sixty days of the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting proof of beneficial use on March 27, 1987; and,

WHEREAS, the Department's action on the request for extension of time was not timely, thus depriving the permit holder the option of beneficial use more expeditiously;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 27-7294 be REINSTATED
with no advance in priority.

Dated this 4th day of May, 1987.

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

SEPTEMBER 1, 1985

DEAR PERMIT HOLDER:

ACCORDING TO OUR RECORDS, YOU ARE THE HOLDER OF A WATER PERMIT ON WHICH PROOF OF BENEFICIAL USE OF WATER WAS NOT SUBMITTED BEFORE JULY 1, 1985, WHICH INDICATES YOUR PROJECT IS NOT COMPLETE. THEREFORE, YOU NEED TO BE AWARE OF CHANGES IN IDAHO LAW, EFFECTIVE JULY 1, 1985, WHICH IMPACT ALL WATER PERMITS ISSUED BY THIS DEPARTMENT.

SPECIFICALLY, PURSUANT TO SECTION 42-203D, IDAHO CODE, THE DEPARTMENT MUST REVIEW ALL PERMITS FOR WHICH DEVELOPMENT OF WATER USE WAS NO COMPLETED ON OR BEFORE JULY 1, 1985, TO DETERMINE IF THEY MEET THE NEW REQUIREMENTS OF CHAPTER 2, TITLE 42, IDAHO CODE. RULES AND REGULATIONS GOVERNING THE RE-EVALUATION OF PERMITS ARE NOT YET FINALIZED. HOWEVER, IF YOU COMPLETED THE DEVELOPMENT UNDER YOUR PERMIT BEFORE JULY 1, 1985, YOU SHOULD SUBMIT A PROOF OF BENEFICIAL USE STATEMENT, STATING THAT THE PROJECT WAS COMPLETED BEFORE JULY 1, 1985 SO THAT YOUR PERMIT WILL NOT BE SUBJECT TO THE REVIEW REQUIREMENTS OF SECTION 42-203D, WHICH READS AS FOLLOWS:

42-203D. REVIEW OF PERMITS - OPPORTUNITY FOR HEARING. - (1)THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE [JULY 1, 1985] OF THIS SECTION, EXCEPT TO THE EXTENT A PERMIT HAS BEEN PUT TO BENEFICIAL USE PRIOR TO JULY 1, 1985, TO DETERMINE WHETHER THEY COMPLY WITH THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PROPOSED USE DOES NOT SATISFY THE CRITERIA OF CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL EITHER CANCEL THE PERMIT OR IMPOSE THE CONDITIONS REQUIRED TO BRING THE PERMIT INTO COMPLIANCE WITH CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PERMIT SATISFIES THE CRITERIA ESTABLISHED IN CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL ENTER AN ORDER CONTINUING THE PERMIT. (2)THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR HEARING IN ACCORDANCE WITH SECTION 42-1701A, IDAHO CODE, AND SECTIONS 67-5209 THROUGH 67-5215, IDAHO CODE, FOR EACH HOLDER OF A PERMIT THAT IS PROPOSED EITHER TO BE CANCELLED OR MADE SUBJECT TO NEW CONDITIONS.

YOU MAY OBTAIN PROOF OF BENEFICIAL USE FORMS FROM THE DEPARTMENT. IF YOU HAVE ANY QUESTIONS, PLEASE LET US KNOW.

SINCERELY,

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL
NOVEMBER 30, 1986

138500

J. R. SIMPLOT CO.
P.O. BOX 27
BOISE, ID 83707

PROOF DUE NOTICE

RE: PERMIT NO. 27-7294

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF THE ABOVE REFERENCED WATER PERMIT WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE FEBRUARY 1, 1987. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST.) ENCLOSED IS A FORM WHICH WHEN ACCOMPANIED BY THE LICENSE EXAMINATION FEE OR A COMPLETED FIELD EXAMINATION REPORT PREPARED BY A CERTIFIED WATER RIGHT EXAMINER MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION WHICH MIGHT BRING TITLE TO THE WATER IN QUESTION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER AN ACCEPTABLE PROOF OF BENEFICIAL USE SUBMITTAL OR AN ACCEPTABLE REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

PAYEE: DETACH THIS STATEMENT BEFORE DEPOSITING

J. R. SIMPLOT COMPANY - Boise, Idaho 83707

Nº 25321

INVOICE NO.	DESCRIPTION	ACCOUNT	CENTER	AMOUNT	PROJECT	DESC. II
	Fee for filing "Request for Extension fo Time" Permit No. 27-7294	23	310	\$15.00		

J. R. SIMPLOT COMPANY / ONE CAPITAL CENTER / 999 MAIN STREET / SUITE 1300
P.O. BOX 27 / BOISE, IDAHO 83707 / (208) 336-2110 / TELEX 368432

CORPORATE HEADQUARTERS

December 10, 1986

RECEIVED

DEC 11 1986

Department of Water Resources

Department of Water Resources
Statehouse
Boise, ID 83720

RE: 27-7294

Gentlemen:

This will acknowledge receipt of your November 30 letter concerning this permit. I have enclosed a completed Request for Extension of Time, which sets forth the various reasons for the delay in completion of this project. Additionally, I have enclosed the \$15.00 fee. I would appreciate it if you could advise me if you need any further information. Please call if you have any questions.

Sincerely,



BRUCE L. BELZER
Assistant General Counsel

BLB:ke
Enclosures
4880k

(cc w/enc.): Ken Scheiss



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

EXTENSION OF TIME

December 16, 1986

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

PERMIT NO. 27-7294

We are in receipt of the \$15 extension fee for Extension(s) of Time to provide additional time in which to submit proof of beneficial use on a water right permit.

Your request for extension(s) of time is being reviewed by staff. You will be informed of our decision when review has been completed.

Enclosed is our receipt No. 40886.

Roberta Garrett
Records Supervisor

Enclosure

STAFF REVIEW SHEET - EXTENSION OF TIME

Permit No. 27-7294Reviewed by [Signature]Date 12-22-1986

BASIC INFORMATION

Y Date stamp received
Y Extension received timely
(not prior to 6 month before proof due date or after reinstatement period)
Y Fee received and receipted
Y Name and signature same as permit
N Address change (indicate on coding sheet)

BASIS FOR EXTENSION REQUEST

N Has adequate work been completed to demonstrate due diligence?
N Has the cost incurred been adequate to demonstrate an intent to complete the project?
N Has the permit been involved in litigation?
a. Swan Falls _____ Dismissed from Swan Falls _____
Other _____ Identify _____
b. Is supporting documentation needed to complete the file? _____
Requested _____
c. Calculate the period of delay

Date litigation completed _____

Date litigation began _____

Total period of delay = _____

Present proof due date + _____

NEW PROOF DUE DATE = _____

N Is delay by a government agency?
Is supporting documentation needed to complete the file? _____
Requested? _____

ACTION TAKEN - *Recommend denial since permit holder will not continually proceed with the development of the project.*

Special conditions or remarks:

n/a Reinstatement Date extension received _____ = _____
Proof due date _____ = _____
No. of days late _____ = _____
Priority date _____ = + _____
ADJUSTED PRIORITY DATE _____ = _____

_____ Prepare coding sheet
_____ Change rolodex card

Form 204
4/86

RECEIVED
DEC 11 1986

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

For Office Use Only
\$15 FEE Received by HA
Date 12-15-86
Receipt # 40886

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof
of beneficial use for a water right permit
Department of Water Resources

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time in which to complete development of a water right under the provisions of Section 42-204, Idaho Code.

Permit No. 27-7294

Name(s) of Permit Holder: J.R. Simplot Company

Post Office Address: P.O. Box 27, Boise, Idaho 83707

Attn: R.N. Graves

Telephone No. 336-2110

Date Proof Is Due: February 1, 1987

Describe what work has been completed toward the development of this water right:

(This must be filled out! If no work has been completed, show "none".)

The well has been drilled, cased, test pumped and capped.

Costing \$

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

See attached exhibit.

Permit holder(s) request an extension to February 1, 19 87
(1 yr. minimum)

J.R. SIMPLOT COMPANY
Ronald R. Graves
(Signature) Secretary

FEE: \$15.00

*IF OTHER THAN PERMIT HOLDER,
POWER OF ATTORNEY MUST BE SUPPLIED.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be DENIED for failure of the permit holder to proceed diligently toward the completion of the project on Permit No. 27-7294.

Signed this 23rd day of December, 19 86.

[Signature]
Director

EXHIBIT

This water will be used for processing phosphate ore into fertilizer products at Conda, Idaho. A unique combination of circumstances, as explained below, has precluded putting this well to beneficial use, even though the well has been drilled and cased:

1. Subsequent to application, Simplot has brought "on line" its Smoky Canyon phosphate mine. Slurry ore is conveyed by pipeline from Smoky Canyon to Conda for further processing at Conda. Water is extracted from the slurry delivery point at Conda and utilized in process operations. For reasons which will be explained below, at this stage the amount of slurry sent from Smoky to Conda is a variable, therefore the amount of available water is a variable.
2. The opening of Smoky Canyon mine, in conjunction with the depressed agricultural economy, has caused Simplot to temporarily discontinue mining at Woodall Mountain, which has been the major "on-site" source of ore for Conda until Smoky was opened. This closure is temporary, as Woodall contains a large body of Simplot phosphate ore reserves. Without mining on site, the demand for water consumption at Conda has decreased as no washing facilities are necessary.
3. Simplot has temporarily discontinued the operation of its calciner, which has significantly reduced the amount of water necessary for operation of the Conda plant. The calciner refines phosphate ore by burning and removing hydrocarbons. The principal outlet for Conda's calcined ore was California, which has one of the most severely depressed agricultural economies in the nation. The demand isn't sufficient at this time to justify calciner operation.

For these reasons, Simplot requests a five year extension on the completion of this permit. Five years will hopefully provide sufficient time for the agricultural economy, including the fertilizer industry, to recover and stabilize.

5508B

February 10, 1987

Ronald Graves
J. R. Simplot
P. O. Box 27
Boise, ID 83707

Dear Mr. Graves:

Re: Permit No. 27-7294

LAPSE NOTICE

This office reviewed the request for extension of time you submitted to the department in connection with the above-referenced permit. We regret that under the provisions of Sec. 42-204, Idaho Code, we cannot approve the request since the department granted a previous request.

You are also hereby notified that under the provisions of Sec. 42-218a, Idaho Code, Permit No. 27-7294 has lapsed since the department could not approve the request for extension of time you submitted and the project was not complete enough to submit the proof of beneficial use.

We suggest that you file a new application within one year of the time you actually intend to develop a water right. Since Idaho is now under a mandatory permit procedure to develop a water right, the new application will provide an additional period of time for development, although the priority date will be later in time.

Please feel free to contact our Eastern Regional office if you wish to have assistance in completion of a new application.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosure

CERTIFICATION OF MAILING

I hereby certify that on 2-11-87
a copy of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

[Signature]

Form 204
4/86

RECEIVED
DEC 11 1986

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

For Office Use Only
\$15 FEE Received by 49
Date 12-15-86
Receipt # 40886

REQUEST FOR EXTENSION OF TIME-

To provide additional time in which to submit proof
of beneficial use for a water right permit
Department of Water Resources

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time in which to complete development of a water right under the provisions of Section 42-204, Idaho Code.

Permit No. 27-7294

Name(s) of Permit Holder: J.R. Simplot Company

Post Office Address: P.O. Box 27, Boise, Idaho 83707

Attn: R.N. Graves Telephone No. 336-2110

Date Proof Is Due: February 1, 1987

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

The well has been drilled, cased, test pumped and capped.

Costing \$ _____

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

See attached exhibit.

Permit holder(s) request an extension to February 1, 19 92.
(1 yr. minimum)

J.R. SIMPLOT COMPANY
Ronald R. Graves
(Signature)* Secretary

FEE: \$15.00

*IF OTHER THAN PERMIT HOLDER,
POWER OF ATTORNEY MUST BE SUPPLIED.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be DENIED for failure of the permit holder to proceed diligently toward the completion of the project on Permit No. 27-7294.

Signed this 23rd day of December, 19 86.

Howard H. Hunsaker
Director

EXHIBIT

This water will be used for processing phosphate ore into fertilizer products at Conda, Idaho. A unique combination of circumstances, as explained below, has precluded putting this well to beneficial use, even though the well has been drilled and cased:

1. Subsequent to application, Simplot has brought "on line" its Smoky Canyon phosphate mine. Slurry ore is conveyed by pipeline from Smoky Canyon to Conda for further processing at Conda. Water is extracted from the slurry delivery point at Conda and utilized in process operations. For reasons which will be explained below, at this stage the amount of slurry sent from Smoky to Conda is a variable, therefore the amount of available water is a variable.
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For these reasons, Simplot requests a five year extension on the completion of this permit. Five years will hopefully provide sufficient time for the agricultural economy, including the fertilizer industry, to recover and stabilize.

5508B



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

Bruce

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

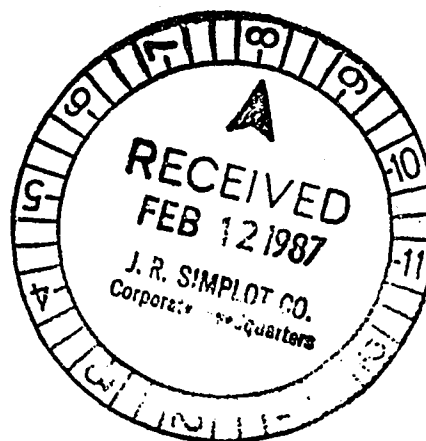
Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

February 10, 1987

Ronald Graves
J. R. Simplot
P. O. Box 27
Boise, ID 83707

Dear Mr. Graves:

Re: Permit No. 27-7294



LAPSE NOTICE

This office reviewed the request for extension of time you submitted to the department in connection with the above-referenced permit. We regret that under the provisions of Sec. 42-204, Idaho Code, we cannot approve the request since the department granted a previous request.

You are also hereby notified that under the provisions of Sec. 42-218a, Idaho Code, Permit No. 27-7294 has lapsed since the department could not approve the request for extension of time you submitted and the project was not complete enough to submit the proof of beneficial use.

We suggest that you file a new application within one year of the time you actually intend to develop a water right. Since Idaho is now under a mandatory permit procedure to develop a water right, the new application will provide an additional period of time for development, although the priority date will be later in time.

Please feel free to contact our Eastern Regional office if you wish to have assistance in completion of a new application.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosure

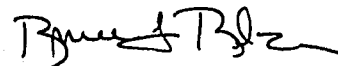
State of Idaho
Department of Water Resources
February 12, 1987
Page 2

been to the extent desired by Simplot and allowed by the permit, and such degree of use would not have been as economical as if the entire permitted amount was perfected, but it is certainly preferable to a lapse.

3. According to I.C. §42-218a we have 60 days after February 1 to complete the beneficial use. If you respond promptly to this letter, instead of sitting on a decision for 49 days, we can still perfect 27-7294 as to a portion of the permitted flow.
4. We quite likely may avail ourselves of the right to hearing provided for in I.C. §42-1701A(3). This petition for hearing must be filed within 15 days of receipt of denial. Therefore, it is imperative to have your response in time to file the petition.

This permit is extremely important to the future operation of the processing plant at Conda, Idaho. Simplot has incurred considerable costs in developing the permit. I would expect and appreciate a prompt clarification of the ambiguities contained in your February 10, 1987 Lapse Notice and the enclosure.

Sincerely,



BRUCE L. BELZER
Assistant General Counsel

BLB/ch
Enclosure
5816B

J. R. SIMPLOT COMPANY / ONE CAPITAL CENTER / 999 MAIN STREET / SUITE 1300
P.O. BOX 27 / BOISE, IDAHO 83707 / (208) 336-2110 / TELEX 368432

CORPORATE HEADQUARTERS

CERTIFIED MAIL
RETURN RECEIPT NO. P674094436

RECEIVED

FEB 13 1987

February 12, 1987

Department of Water Resources

State of Idaho
Department of Water Resources
Statehouse Mail
Boise, ID 83720

RE: 27-7294

Gentlemen:

I am writing in regard to a recent Lapse Notice sent by your office, a copy of which I have enclosed. According to the information contained in the Lapse Notice, the Department has previously granted an extension of time for this permit. Allegedly, this is the basis for denial. We find no record of any prior extension. Further, the reason for denial in the Lapse Notice conflicts with the reason contained on the Request, which reason is stated as "failure of the permit holder to proceed diligently toward completion of the project." I would appreciate it if you could promptly review your file to confirm any prior extension, and also advise as to the reason this Request was denied.

Your immediate response to this letter is extremely important, for the following reasons:

1. As you can see from the Request received by the Department on December 11th, we have nearly completed the project. The well has been drilled, cased, tested and capped.
2. The Department denied the Request on December 23rd, but sat on the Request until February 10th. If the decision would have been sent to us within a reasonable period of time following denial, we could still have put 27-7294 water to beneficial use prior to the February 1 due date. Such use would not have

February 17, 1987

Bruce L. Belzer
J. R. Simplot Co.
P. O. Box 27
Boise, ID 83707

Dear Mr. Belzer:

Re: Permit No. 27-7294 -- J. R. Simplot Co.

In response to your letter dated February 12, 1987, you are correct that the department has not previously granted an extension of time in connection with the above referenced permit. Our transmittal letter dated February 10, 1987 incorrectly stated that the department had previously granted a prior extension.

As I explained in a telephone conversation today (February 17, 1987) with Mr. Bob Whipkey of your office, you may request a hearing as suggested in your letter, file proof of beneficial use if the water has, in fact, been diverted and beneficially used, or file a new application when you are ready to proceed with the beneficial use of the water and development of a water right.

We regret the delay in department action relative to the extension of time request previously submitted.

If I can of assistance relative to the options available at this time, please feel free to call me at 334-4410.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

cc: Bob Whipkey

J. R. SIMPLOT COMPANY / ONE CAPITAL CENTER / 999 MAIN STREET / SUITE 1300
P.O. BOX 27 / BOISE, IDAHO 83707 / (208) 336-2110 / TELEX 368432

CORPORATE HEADQUARTERS

RECEIVED
MAR 27 1987

March 26, 1987

Department of Water Resources

State of Idaho
Department of Water Resources
Statehouse Mail
Boise, ID 83720

RE: 27-7294

Gentlemen:

I have enclosed a completed Proof of Beneficial Use for this permit, as well as a check for \$125.00 to cover the examination fee. Please advise if you have any questions.

Sincerely,



BRUCE L. BELZER
Assistant General Counsel

BLB/ch
Enclosure
6021B

CERTIFIED MAIL
RETURN RECEIPT NO. P581192841

Form 217
03/86

RECEIVED

MAR 27 1987

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

For Office Use Only
Fee Received \$125.00
Date 3-30-87
Receipt # 44621
Receipt by [Signature]
Reviewed by [Signature]
Sent to region D

Department of Water Resources

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 27-7294

Name(s) of Permit Holder: J.R. Simplot Company

Post Office Address: P.O. Box 27, Boise, Idaho 83707

Attn: Ron Graves Telephone No. 336-2110

Source of Water: Groundwater

Extent of Use:

Domestic (number of households) Stockwater (number and type of stock)

Irrigation (acres) Other/Remark Industrial/beneficiation

of phosphate rock)

Total rate and/or volume for which proof is submitted 2.0 cfs acre-feet

Show the date water was first diverted and beneficially used under this permit: March 24, 1987

Measuring Device: Required? Yes No
Installed? Yes No Fee enclosed \$ 125.00
(See License Examination Fee Schedule)

Flow Measurement Port: Required? X Yes No
Installed? X Yes No

Person to contact to accompany the Department representative during the field examination:

Ken Schiess 547-3352
(Name) (Telephone Number)

Conda Mine, Conda, Idaho 83230
(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

J. R. Simplot Company

3-26-87 Date Signature of Permit Holder (and title, if appropriate) -Secretary

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT)
NO. 11-07438 IN THE NAME)
OF J. R. SIMPLOT COMPANY)
_____)

**PRELIMINARY ORDER
VOIDING PERMIT**

This matter having come before the Department of Water Resources (Department) as a result of an investigation by the Department to determine the extent of beneficial use of water, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On December 16, 1981, J. R. Simplot Company (permit holder) applied to the Department for a permit to appropriate 3.0 cubic feet per second from groundwater within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 16, Township 8 South, Range 42 East, B. M., Caribou County, to be used for industrial purposes.
2. On February 18, 1982, the Department approved the application as Permit No. 27-07294 (permit). For administrative purposes the permit was subsequently renumbered to 11-07348.
3. On March 27, 1987, the Department received the permit holder's proof of beneficial statement for the permit.
4. On August 9, 1995, the Department conducted a field examination to verify the development under the permit. The field examiner reported that water was being diverted at a location other than the point of diversion authorized by the permit.
5. On February 4, 1997, the Department sent notice to the permit holder stating that the permit has to be amended to accurately portray the point of diversion before the Department can issue a water right license. An Application for Amendment of Permit form was enclosed with the notice.
6. On March 21, 1997, the Department sent a second notice giving the permit holder fourteen days to amend the permit.
7. At the request of the permit holder, the Department extended the time for responding to the amendment request to September 15, 1997.

8. On September 24, 1997, and again on October 24, 1997, the Department reminded the permit holder that the amendment is required.

9. The Department has not received the application for amendment of the permit.

10. The provisions of Section 42-219, Idaho Code, authorize the Director of the Department of Water Resources to void permits for which the applicant has not fully complied with the law and the conditions of the permit.

CONCLUSIONS OF LAW

1. Section 42-219, Idaho Code, states:

In the event that the Department shall find that the applicant has not fully complied with the law and the conditions of the permit, it may issue a license for that portion of use which is in accordance with the permit, or may refuse issuance of a license and void the permit.

2. Development of the water as listed on the permit was a condition of the permit, and compliance with the condition was required prior to perfection of a water right.

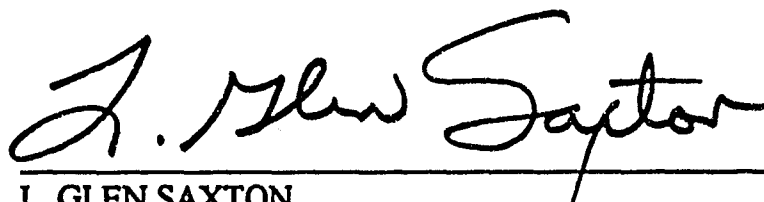
3. The permit holder could have amended the permit, but the permit holder has not filed the appropriate Application for Amendment of Permit.

4. A license should not be issued on this permit and the permit should be voided pursuant to Section 42-219, Idaho Code.

ORDER

IT IS HEREBY ORDERED that issuance of a license is **REFUSED** and Permit No. 11-07438 is **VOIDED** under Section 42-219, Idaho Code.

Dated this 13th day of November, 1997.



L. GLEN SAXTON
Chief, Water Allocation Bureau

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT)
NO. 11-07438 IN THE NAME)
OF J. R. SIMPLOT COMPANY)
_____)

ORDER GRANTING PETITION
FOR RECONSIDERATION AND
RESCINDING PRELIMINARY
ORDER VOIDING PERMIT

This matter having come before the Department of Water Resources (Department) as a petition to reconsider the order voiding a permit to appropriate water, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On November 13, 1997, the Department issued a preliminary order voiding Water Right Permit 11-07438 (permit), issued in the name of J R Simplot Company (permit holder), because the permit holder did not file the Application for Amendment of Permit (amendment) determined to be necessary according to the field inspection conducted on August 9, 1995.
2. On December 15, 1997, the Department received a petition for reconsideration of the preliminary order from the permit holder. The Department also received the amended amendment form.

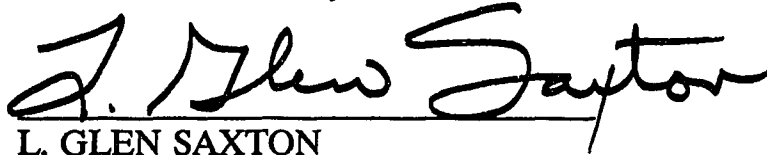
CONCLUSIONS OF LAW

1. Section 67-5243(3) , *Idaho Code*, provides that unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a preliminary order and that the presiding officer shall render a written order disposing of the petition.
2. The permit holder has established a water use in accordance with the permit.
3. The Department should grant the petition for reconsideration of the permit pursuant to Section 67-5243(3), *Idaho Code*.
4. The Department has received the required amendment.
5. The Department should rescind the preliminary order voiding the permit.

ORDER

IT IS HEREBY ORDERED that the petition for reconsideration of the preliminary order voiding water right permit 11-07438 submitted by J R Simplot Company is **GRANTED** pursuant to Section 67-5243(3), *Idaho Code*. IT IS FURTHER ORDERED that the preliminary order voiding permit 11-07438 is **RESCINDED** and the permit is **REINSTATED**.

Dated this 17th day of December, 1997.



L. GLEN SAXTON
Chief, Water Allocation Bureau

State of Idaho
Department of Water Resources

RECEIVED
DEC 15 1997

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 11-07438

Department of Water Resources

Date of Priority: December 16, 1981 Maximum Diversion Rate: 2.80 CFS
Maximum Diversion Volume: 21.5 AF

Comes now JR SIMPLOT CO
PO BOX 27
BOISE ID 83707

and represents to the Director of the

Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 11-07438, and requests that the permit be changed as follows:

Source: GROUNDWATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
INDUSTRIAL	01/01 to 12/31	2.80 CFS	21.5 AF

LOCATION OF POINT(S) OF DIVERSION: SWNE , Sec. 16, Township 08S, Range 42E
CARIBOU County

PLACE OF USE: INDUSTRIAL
TWN RGE SEC
08S 42E 15 NWNE

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed at Boise, Idaho, this 11th day of December, 1997.

J.R. Simplot Company

By: Ronald N. Graves
Ronald N. Graves, Secretary

PAGE 2

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 11-07438

FOR DEPARTMENT USE ONLY

Preliminary check by gmk Fee = 50.00 Receipted by LS # C04096 Date 12/15/97

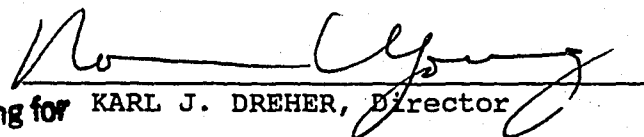
ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, Karl J. Dreher, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 11-07438 with the following;

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Water used under this right if discharged into a natural channel shall meet Idaho Water Quality Standards.
6. Industrial use is for phosphate processing plant.

Witness my hand this 19TH day of DECEMBER, 1997.


Acting for **KARL J. DREHER, Director**

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 11-07438

Priority: December 16, 1981

Maximum Diversion Rate:

2.80 CFS

Maximum Diversion Volume:

21.5 AF

This is to certify, that JR SIMPLOT CO

PO BOX 27

BOISE ID 83707

has complied with the terms and conditions

of the permit, issued pursuant to Application for Permit dated December 16, 1981; and has submitted Proof of Beneficial Use on March 27, 1987. An examination indicates that the works have a diversion capacity of 2.800 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
INDUSTRIAL	01/01 to 12/31	2.80 CFS	21.5 AF

LOCATION OF POINT(S) OF DIVERSION:

SWNE , Sec. 16, Township 08S, Range 42E
CARIBOU County

PLACE OF USE: INDUSTRIAL

TWN RGE SEC

08S 42E 15

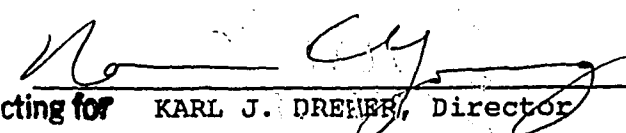
NWNE

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license shall be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Water used under this right if discharged into a natural channel shall meet Idaho Water Quality Standards.
6. Industrial use is for phosphate processing plant.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.

Witness the seal and signature of the Director, affixed at Boise, this 19th
day of DECEMBER, 1987.


Acting for KARL J. DREHER, Director

Form 204-p
6/82

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

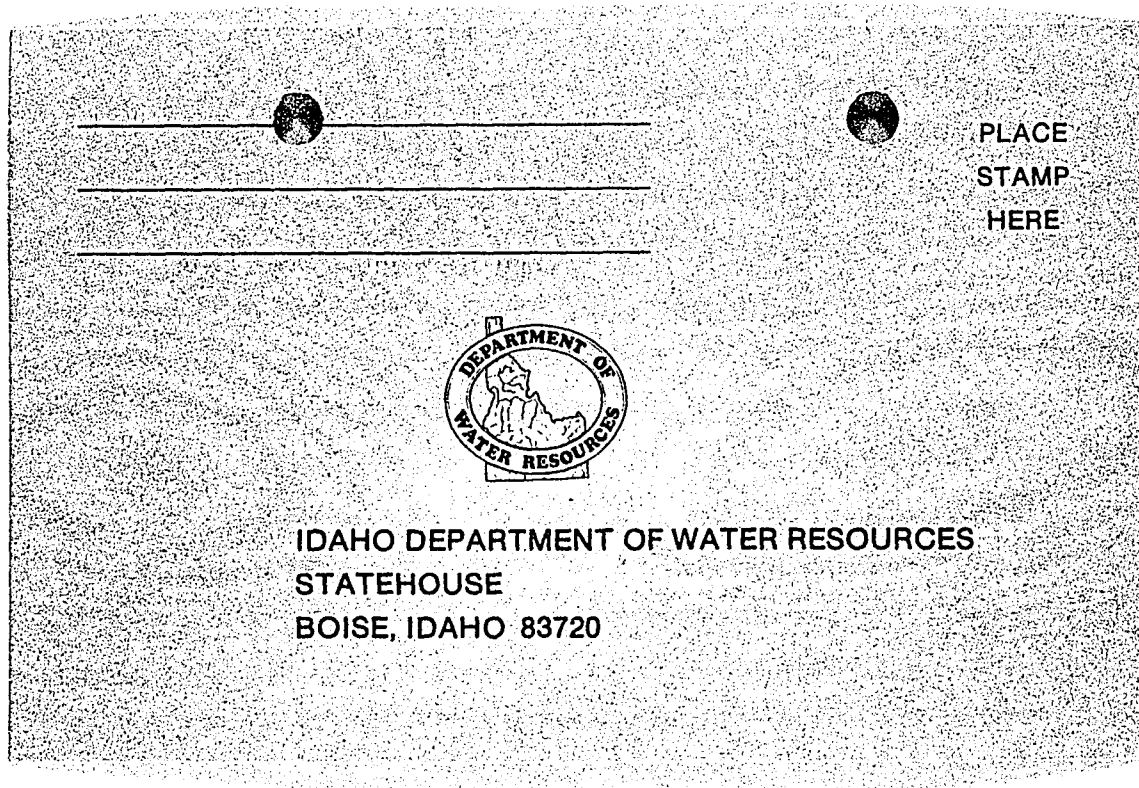
Permit No. 27-7294
Name(s) of Permit Holder(s): J. R. Simplot Company
Post Office Address: P. O. Box 27, Boise, Idaho 83707
Tel. No. 336-2110

- ☒ I hereby certify that construction of diversion works for the above referenced permit began on June 1983 (date). I understand that I must continue to develop the water system with due diligence to maintain a valid permit.
- ☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control*:

*Note: A financing difficulty is not an acceptable reason.

6/31/83
Date

by *Ronald H. Haines* Secretary
Signature of Permit Holder



PLACE
STAMP
HERE



IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup, Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

JULY 29, 1987

J.R. SIMPLOT COMPANY
P.O. BOX 27
BOISE ID 83707

RE: Permit No. 27-7294

Dear Permit Holder:

We acknowledge receipt of your statement submitted as proof of beneficial use for the above referenced permit.

Enclosed please find a copy of an order involving your permit.

Before a license can be issued, a field examination must be made by a representative of this department.

A field examiner will contact you to arrange to examine your system.

If you have any questions regarding the field examination, please contact this office by phone at 525-7161 or in person in the third floor State Office Building, 150 Shoup, Idaho Falls, Idaho.

Sincerely,
s/HAROLD W. JONES
Sr. Resource Agent

Enclosure

27-7294

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

February 10, 1995

Certified Mail

R. Keith Higginson
Director, State of Idaho
Department of Water Resources
1301 North Orchard Street
Boise, ID 83720-9000

Re: Boundary Change for IDWR Administrative Basin No. 27.

Dear Mr. Higginson:

The J. R. Simplot Company owns real property located in Conda, Idaho on which an industrial facility is located that is used in processing and transporting ore mined in eastern Idaho. Operation of the Conda facility is in large part dependent upon wells that supply water for industrial, mining and mineral transporting purposes.

On January 20, 1995, we received your letter dated January 18, 1995, the subject of which was the special public meeting in Grace, Idaho to discuss the possibility that provisions in the Bear River Compact providing for interstate distribution of Bear River Water may be implemented this summer. Simplot received your letter because of other land that is owned with a right to divert water from an unnamed stream that is tributary to the Bear River.

Until recently, we understood that the water supply wells associated with the Conda operation were located in IDWR's administrative basin number 27, a sub-basin of the Snake River basin. While making some inquiries with representatives of IDWR about the Bear River Compact meeting I was informed that the IDWR changed the boundary for administrative basin number 27. Now the wells used to supply the Conda operation are considered by the IDWR to be in the Bear River basin rather than the Snake River basin. Consequently, the water rights associated with the Conda wells may be subject to the water delivery procedures being considered by the Bear River Commission.

Admittedly, we have some catching-up to do in light of the boundary change. To help bring us up-to-speed, I am hopeful you can provide us with the following:

1. The date the IDWR Administrative Basin Number 27 boundary was changed.

2. Information used by IDWR to establish the new boundary for administrative basin No. 27, including changes made to the old boundary that were based on geohydrologic and geographic grounds, and geohydrologic boundaries that were considered by the States when negotiating the Compact.
3. Notice(s) of the IDWR Administrative Basin No. 27 boundary change mailed by the IDWR to water right owners affected by the change.
4. A summary of the procedures used by the IDWR to change the boundary, and copies of the documents prepared by the IDWR in accordance with your procedural requirements.

Because your letter indicates the Bear River Commission is trying to use water delivery procedures provided for in the Compact during 1995, we need your assistance in obtaining this information as soon as possible.

I would be happy to assist the Department in assembling this information, and we agree to reimburse you for any copying costs associated with supplying the above information. Please call me at 208-389-7359 if you need our assistance.

Sincerely,



Vic Conrad
Associate, Simplot
Land and Development

cc: B. Black
B. Kestle
T. Uhling
G. Young

Copies of this letter will be sent separately by certified mail to Sharla Curtis, Secretary IDWR, to be included in the following IDWR water right files:

27-02113	27-07294
27-02138	27-07216
27-02168	SRBA Claim File No. A27-11338

A. GENERAL INFORMATION

Permit No. 27-07294

1. Owner: J.R. SIMPLOT CO. Phone No. (208) 336-2110
- Current Address: P.O. BOX 27, BOISE, IDAHO 83707
2. Accompanied by: TERRY R. LISH EXAM DATE: 8/9/95
CONDA PUMP STATION
- Address: 3064 CONDA ROAD, SODA SPRINGS, ID. 83276 Phone No. (208) 547-3352
- Relationship to Permit Holder: PUMP STATION FOREMAN
3. Source: GROUND WATER tributary to N/A

B. OVERLAP REVIEW

1. Other water rights with the same place of use: NONE
2. Other water rights with the same point of diversion: NONE

C. DIVERSION AND DELIVERY SYSTEM,

1. Point(s) of Diversion:

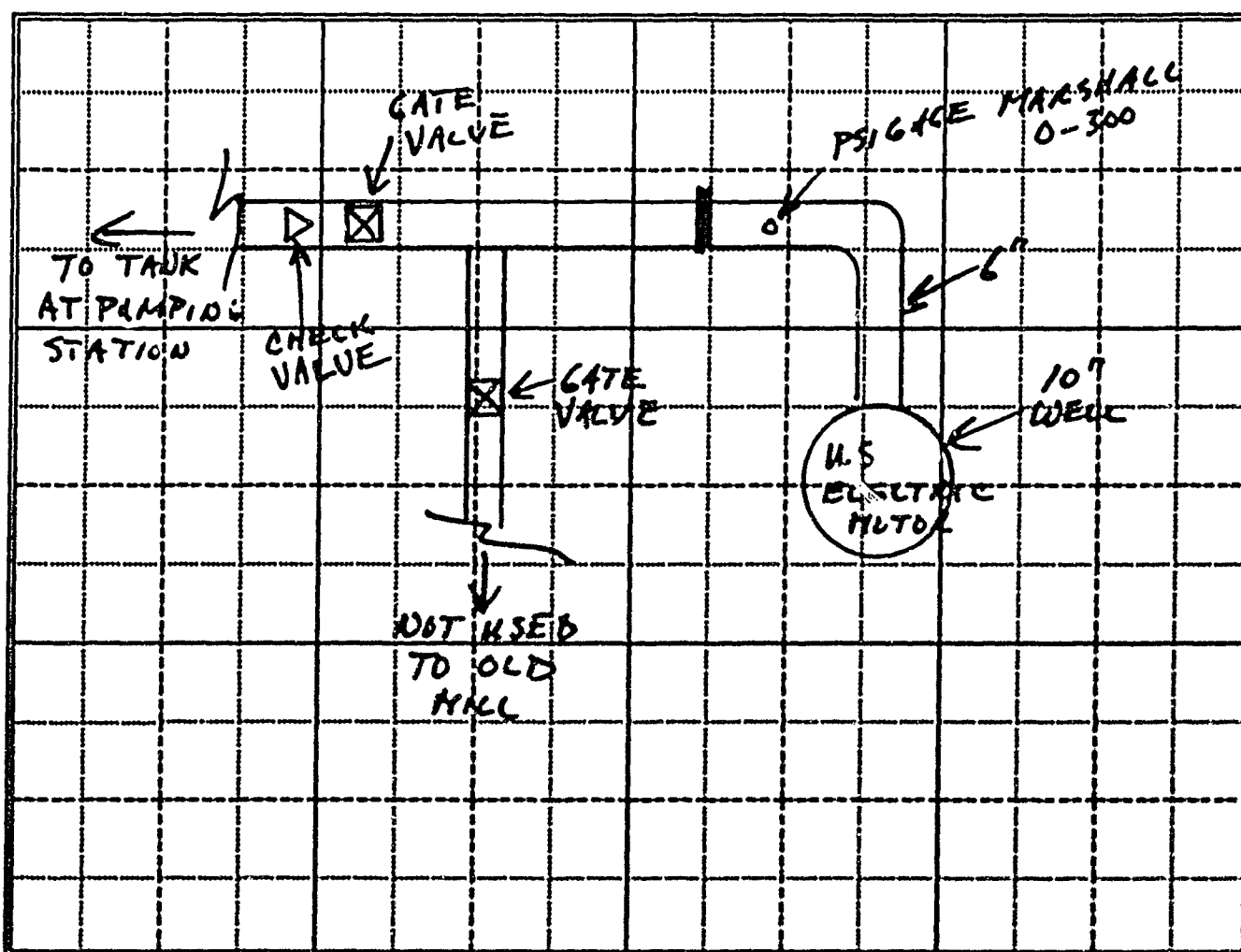
[illegible]

2. Place(s) of Use:

Indicate Method of Determination *ON SITE INSP.*

[illegible]

3. Delivery System Diagram: Indicate all major components and distances between components. Indicate well size/ditch size/pipe I.D. as applicable. SEE PHOTOS & MAP



Scale: 1" = _____

____ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

____ Aerial Photo Attached (required for irrigation of 10+ acres)

____ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
WELL #10	U.S. MOTOR	60	1341989	VERTILINE PUMP	8" 6"

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
PRESSURE GAGE	U.S.G.				0-100	

2. Measurements: SYSTEM PRESSURE 60 PSI AT PUMP
(SEE ATTACHMENT FOR THEORETICAL Q CALCULATION)

E. NARRATIVE/REMARKS/COMMENTS

WATER APPROPRIATED FOR THIS PERMIT IS USED TO MIX
WITH SLURRY SENT TO THIS FACILITY (PUMPING STATION)
FROM SMOXY CANYON; AFTER WATER IS ADDED MIX IS
THEN SENT VIA PIPELINE TO POCAHELLO.

1,000 PSI FROM SMOXY CANYON BOOSTED TO 3,000 PSI TO POCAHELLO.

WELL: DRILLED IN 1981 SLURRY AT 63% SOLIDS

DEPTH 300'

CASING 120'

STATIC 20'

PIPE TO WATER TANK 8"

PUMP SIZE 60 HP

WATER STORAGE TANK 8' X 30' CYLINDER $\approx$ 5,654 CU. FT.

$\approx$ 42,304 GALLONS

(REOVING WATER)

STORAGE POND 6 ACRES X 11' DEEP $\approx$ 479,160 CU. FT.

PUMP PUMP WATER TO TANK, OVER FLOW GOES TO POND.

Have conditions of permit approval been met? ☒ yes ☐ no

F. FLOW CALCULATIONS☒ Additional Computation Sheets AttachedMeasured Method: THEORETICAL

$$Q = 2.80 \text{ CFS.}$$

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{\hspace{2cm}}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = \underline{\hspace{2cm}}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = \underline{\hspace{2cm}}$$

2. Volume Calculations for Other Uses:

USAGE PROVIDED BY PLANT MANAGER

$$7,000,000 \text{ GALS./YR} = 21.48 \text{ AFA}$$

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<u>INDUSTRIAL</u>	<u>1/1</u>	<u>12/31</u>	<u>2.8</u>	<u>21.5</u>
Totals:			<u>2.8 CFS</u>	<u>21.5 AFA</u>

2. Recommended Amendments

☒ Change P.D. as reflected above ☐ Add P.D. as reflected above ☐ None
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

I. AUTHENTICATIONField Examiner's Name SIMPSON Date 1/18/96Reviewer [Signature] Date 2/27/96

SEAL

THEORETICAL PUMP FLOW CALCULATIONS

Formula:

$$Q_{cfs} = [(Hp)(8.814)(Eff)] \div [Lift + (psi \times 2.308)]$$

$$\begin{aligned} Hp &= \text{Horsepower} = \underline{60} \\ Eff &= \text{Efficiency} = \underline{.7} \quad (\text{Usually } 70\%) \\ \text{Lift: } &(\text{Static Level} + \text{Assumed Draw down}) \\ &\text{Static Water Level} = \underline{20} \text{ ft.} \\ &\text{Assumed Draw down} = + \underline{20} \text{ ft.} \\ &\text{Lift} = \underline{40} \end{aligned}$$

OR

$$\text{Measured Dynamic Water Level} = \underline{\hspace{2cm}} \text{ ft.}$$

$$psi = \text{Operating Pressure} = \underline{40} \text{ psi}$$

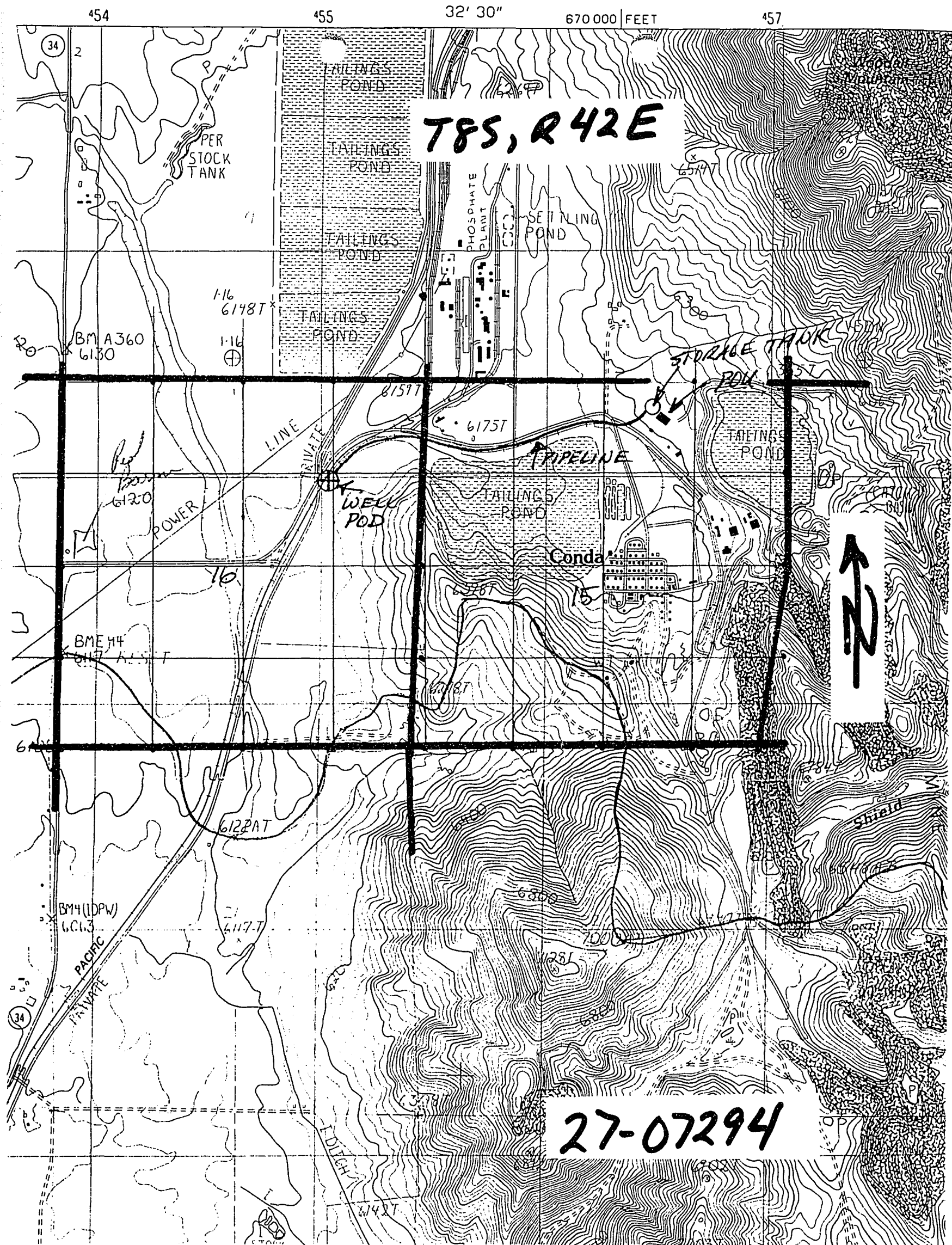
$$Q_{cfs} = \left[\frac{60}{Hp} \times 8.814 \times \frac{.7}{Eff} \right] \div \left[\frac{40}{Lift} + \left(\frac{40}{psi} \times 2.308 \right) \right]$$

$$Q_{cfs} = \left[\underline{370.188} \right] \div \left[\underline{132.32} \right]$$

$$Q_{cfs} = \underline{2.797} \text{ cfs}$$

*Q IS LIMITED BY PUMP SIZE AND
SYSTEM DESIGN*

PERMIT NO. 27-07294



Sec. 8

Sec. 9

Sec. 10

580 T R42E

Sec. 17

Sec. 16

Sec. 15

NEWMAN,

W.

GEORGE

Sec. 20

Sec. 21

Sec. 22

Sec. 23

SURVEYED

BY

1873.

Res.

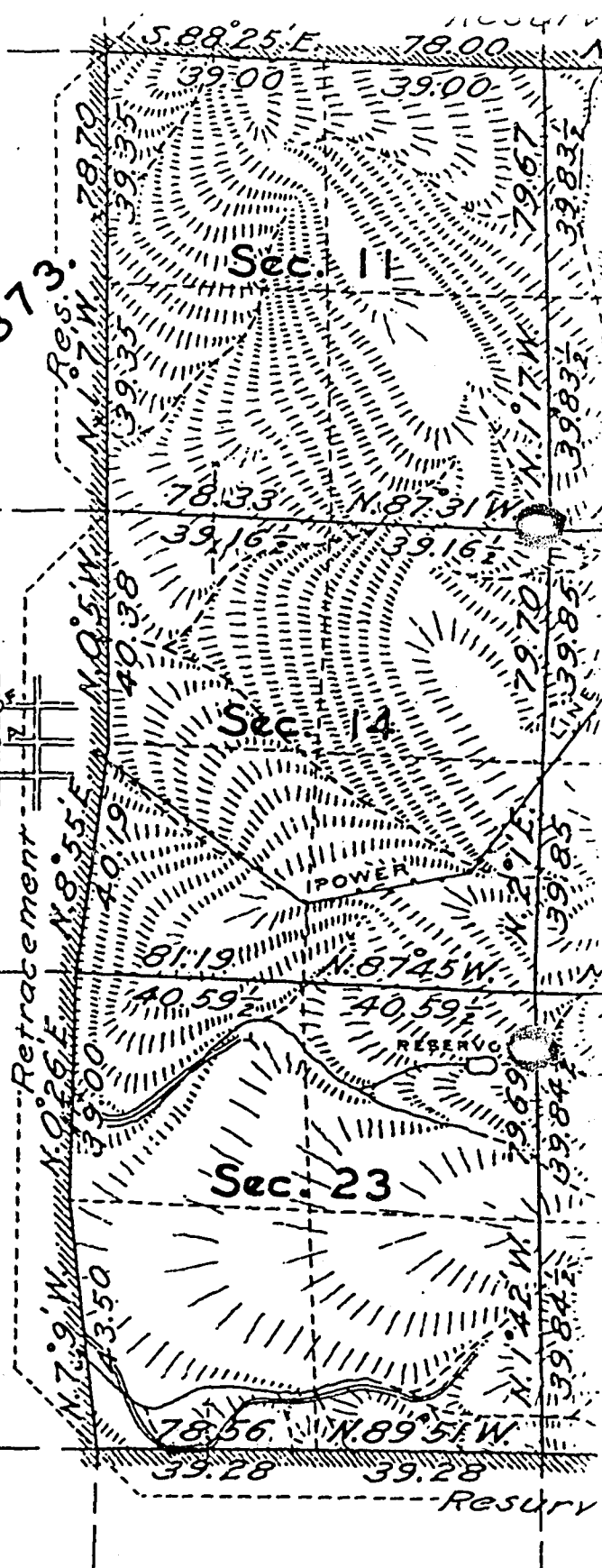
Retracement

POWER

RESERVOIR

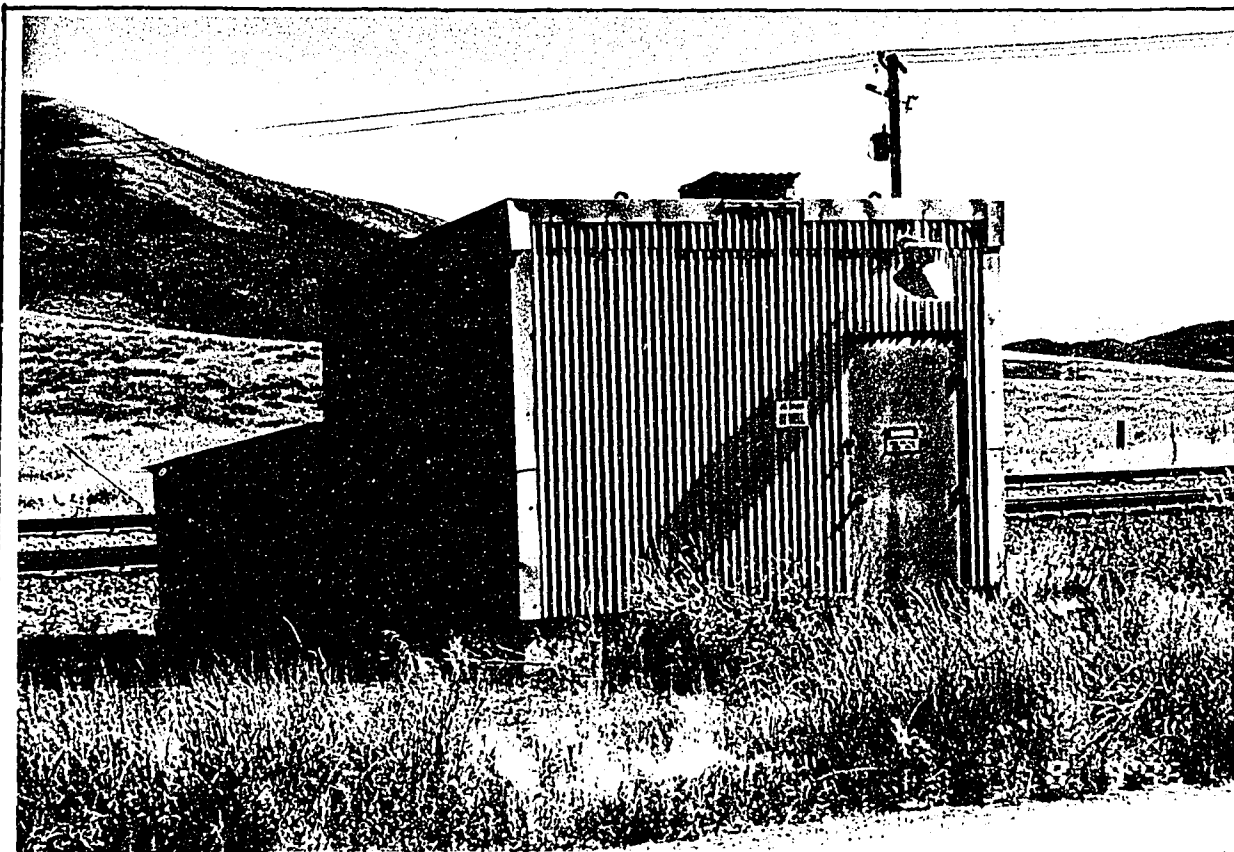
Reserv

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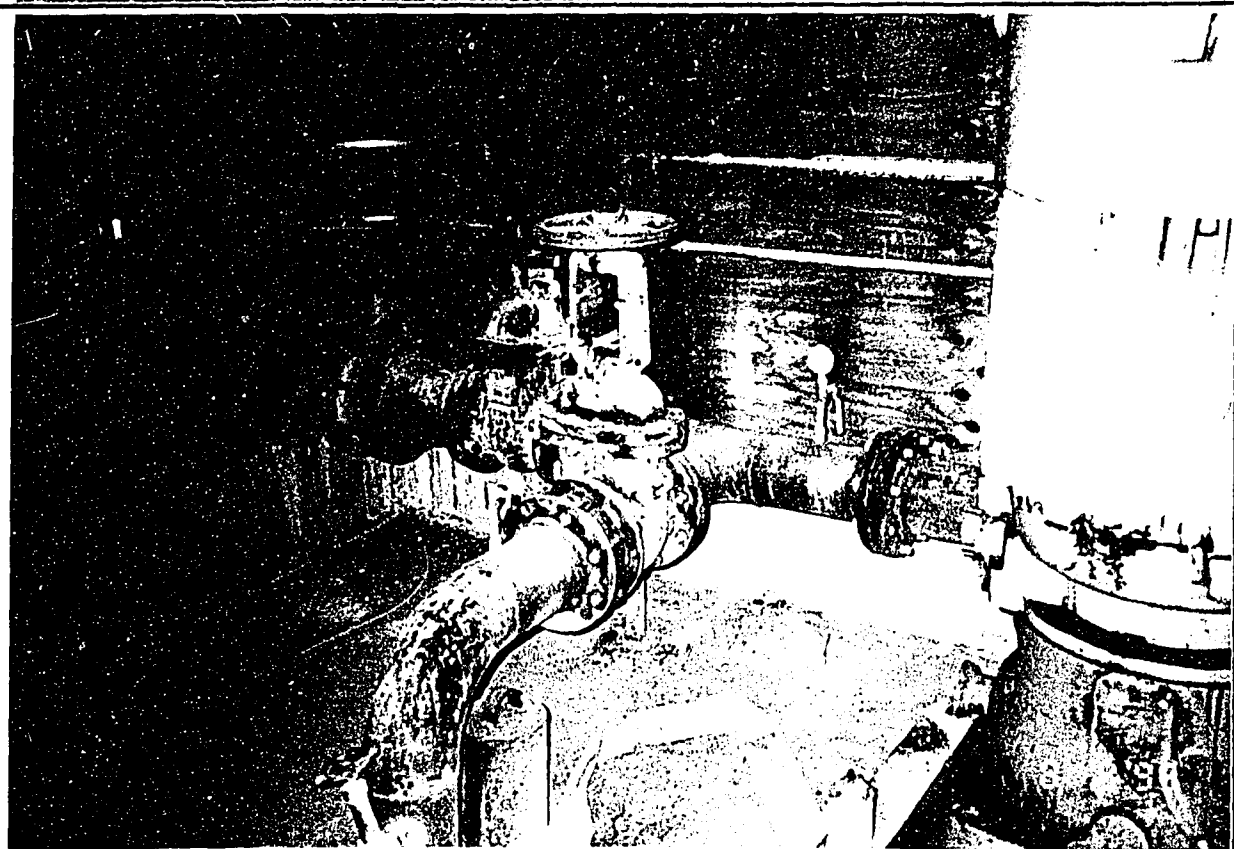


SIMPLDT CO.
INDUSTRIAL USE

1012



PUMP +
WELL SHACK
POINT OF
DIVERSION

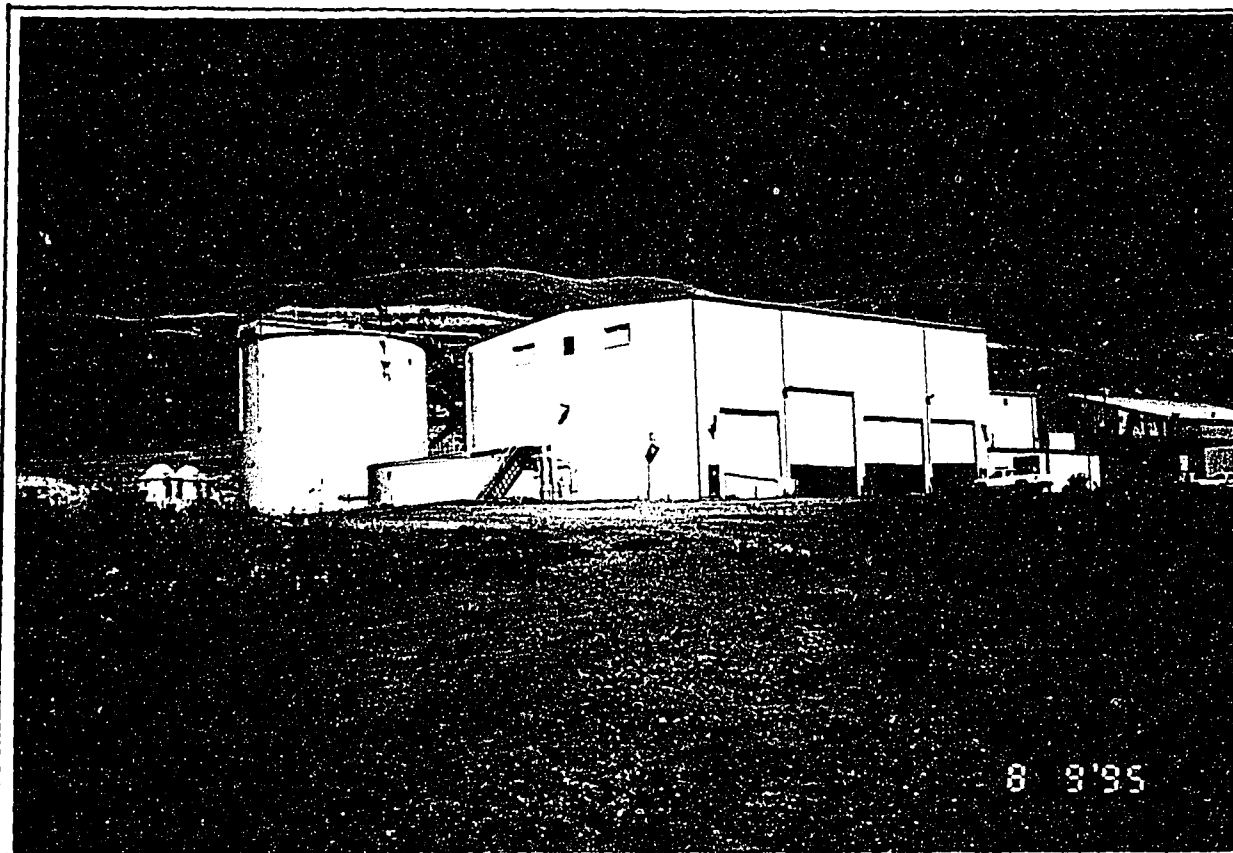


INTERIOR
OF PUMP
BUILDING
MOTOR + PUMP
ON LOWER
RIGHT

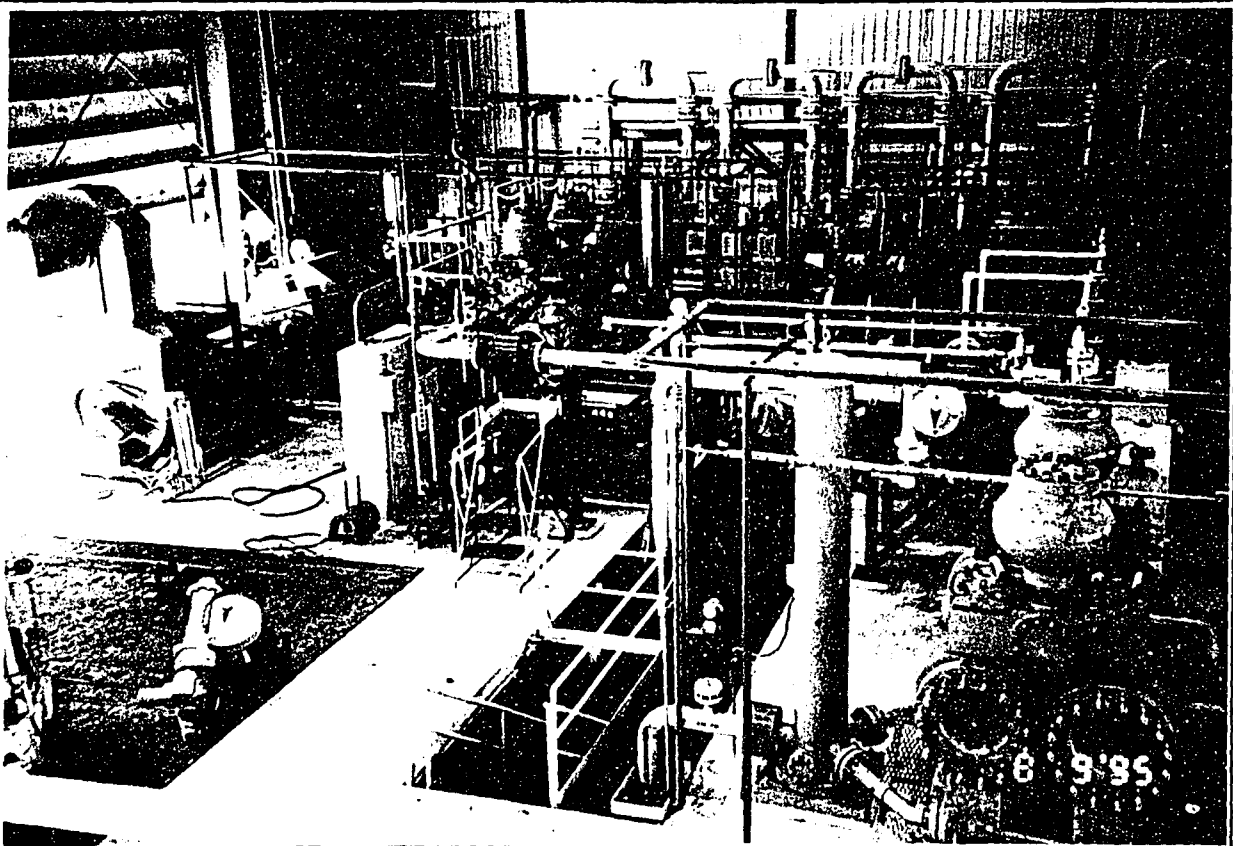
27-07294

SIMPLLOT CO.
INDUSTRIAL USE

2 of 2



PLACE OF
USE
STORAGE
TANK ON
LEFT OF
PUMPING
STATION



INTERIOR
VIEW OF
PUMPING
STATION

27-07294

***FOR CLARITY
OF ANY
PHOTOGRAPHS
MICROFILMED,
SEE FILE.***



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 4, 1997

JR SIMPLOT CO
PO BOX 27
BOISE ID 83707

RE: WATER RIGHT NO. 11-07438

Dear Water Right Holder(s):

The above referenced water right is in the process of being licensed. However, before a license can be issued, your permit must be amended to depict your water right as it has actually been developed.

The enclosed Application for Amendment contains information that will be included on the license when it is issued. The amendment reflects a change in the location of the point(s) of diversion and the place(s) of use description. Please review carefully and if you concur, sign the amendment and return with the \$50.00 filing fee within 60 days.

The last page of the Application for Amendment form contains a list of Conditions of Approval and Remarks proposed for the license when it is issued. These conditions of approval and remarks may be modified upon further administrative review.

If you do not concur, or if you have any questions about this information, please contact me as soon as possible. My telephone number is (208) 327-7946.

Sincerely,

A handwritten signature in cursive script that reads 'Shelley W. Keen'.

Shelley W. Keen
Water Rights Supervisor

SK:ph

Enclosure



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

March 21, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JR SIMPLOT CO
PO BOX 27
BOISE ID 83707

RE: WATER RIGHT NO 11-07438

Dear Water Right Holder(s):

I previously forwarded to you an Application for Amendment so that you could amend your permit to depict your water right as it has actually been developed. I have not yet received the amendment. If I do not receive it within fourteen days, I will assume you no longer have any interest in the permit and cancellation proceedings will begin.

Enclosed for your convenience is another amendment form. Please note that the filing fee for this amendment is \$50.00. If the address on the amendment is incorrect, please put the correct address on the amendment form.

If you have any questions, please call me at (208) 327-7946.

Sincerely,

A handwritten signature in cursive script that reads "Shelley Walter Keen".

Shelley Walter Keen
Water Right Supervisor

SK:vrr

Enclosure

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

June 25, 1997

TELEFACSIMILE

Original will follow in regular U. S. Mail

Pages: 2

Fax No. 327-7866

Shelley Keen
Water Rights Supervisor
State of Idaho
Department of Water Resources
1301 North Orchard
Boise, Idaho 83706-2237

Re: IDWR Permit No. 27-07294 aka 11-07438.

Dear Shelley:

In responding to your March 21, 1997, letter I am requesting additional time to evaluate your proposed amendment to this permit. While evaluating the proposed amendment I found changes beyond those you described in your letter dated February 4, 1997.

The most notable change to the permit is the proposed annual volume limit. Restricting the annual volume to 21.5 acre feet per year seems inconsistent with a well that is diverted with a 60 horsepower pump at a flow rate of 2.8 c.f.s.. I am checking with Simplot personnel at Conda to determine whether the volume you are recommending is adequate.

I also need additional time to evaluate the place of use. The point of diversion is part of a system Simplot uses to transport phosphate ore from its Smoky Canyon Mine to its Pocatello processing facility. Water added to the phosphate ore at Smoky Canyon is transported through an underground pipeline to Conda where additional water may be added to the phosphate slurry. The slurry containing water originally diverted at Smoky and Conda is then transported through an underground pipeline to Simplot's Pocatello processing facility. I am concerned that the Pocatello processing facility may need to be added to the place of use under your proposed amendment.

To allow enough time to fully explore these issues I am requesting that you suspend processing the licensing of this water right until August 1, 1997. This should be enough time to allow a complete evaluation of the annual volume diverted from this well and to address the place of use concern with you.

Bringing Earth's Resources to Life

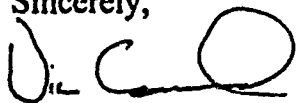
RECEIVED

JUN 26 1997

Department of Water Resources

If I do not hear from you before July 1, 1997, I will assume that these arrangements are acceptable.

Sincerely,

A handwritten signature in black ink, appearing to read "Vic Conrad". The signature is stylized with a large, looped "V" and a cursive "C".

Vic Conrad
Simplot Land and Development



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

July 1, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

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

RE: Water Right No. 11-07438

Dear Vic:

I received your June 24, 1997, letter, and I see no problem with allowing you until August 1, 1997, to look into the questions you have raised regarding the amendment request for permit 11-07438. I will look forward to seeing your response on August 1.

I understand that you are still interested in the renumbering of this permit from 27-07294 to 11-07438. IDWR bases its administrative basin boundaries, and therefore its water right numbers, on surface water drainage boundaries. The number associated with a ground water right does not reflect a determination that the aquifer is hydrologically connected to the surface water in one administrative basin as opposed to a neighboring basin. Making such a determination is a much more complicated exercise than assigning a number based on surface water hydrology. It is much more practical for IDWR to number ground water rights according to the administrative basin in which the point of diversion is located.

Permit 11-07438 was originally numbered 27-07294 because it was thought to be diverted in an area where the surface water is tributary to the Blackfoot River. The Blackfoot River drainage is IDWR's administrative basin no. 27. A closer inspection showed it to be in a location where the surface water flows toward the Bear River, or administrative basin no. 11. So far as I know, the actual hydrologic connection of your well to one surface drainage or the other has not been determined. If conjunctive management of surface and ground water is established in the area, I believe you will have an opportunity to present to IDWR whatever information you may have to indicate a hydrologic connection with one basin instead of another.

If you have any questions, please contact me at 208-327-7946.

Respectfully,

Shelley Walter Keen
Water Rights Supervisor

KANAMELTRS@SIMPLOT@IDOC

MEMORANDUM

DATE: August 4, 1997

TO: Water Right File 11-07438

FROM: Shelley W. Keen ^{SWK}

RE: Additional time to respond to extension request

Last week Vic Conrad called me to ask for additional time to respond to the request for an amendment of permit 11-07438. Vic is preparing a detailed history of the water development at the Conda mine. Vic thinks that the development associated with this permit may be better represented by a transfer to add a point of diversion to one of the earlier licensed rights, but he still needs to contact one more retired Simplot employee to be sure. I told Vic I would hold the file until September 1, 1997.

9/3/97

Vic Conrad requested that the time to respond be extended to 9/15.
S.W. Keen

9/24/97

Vic Conrad called to say that he will send the licensing amendment ASAP.
S.W. Keen

From: DWR03::SKEEN 24-OCT-1997 09:46:04.21
To: DWR06::"vconrad@simplot.com"
CC: SKEEN
Subj: Water Right 11-07438

Vic,

On Sept. 24, 1997, you called to let me know that I could expect to receive the licensing amendment for Right 11-07438. I have not yet received the amendment and am wondering, therefore, if something unexpected came up. As soon as I get the amendment, I can send the license up for signature.

Shelley Keen
Idaho Dept. of Water Resources
327-7946



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 19, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

VIC CONRAD
J R SIMPLOT COMPANY
PO BOX 27
BOISE ID 83707-0027

RE: Permit 11-07438

Dear Water Right Holder(s):

The accompanying order 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 unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer 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 twenty-one (21) 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. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

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 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

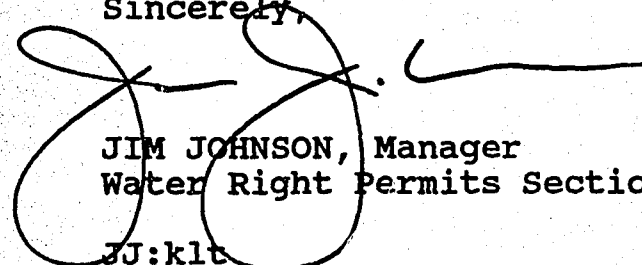
Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district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

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:klb

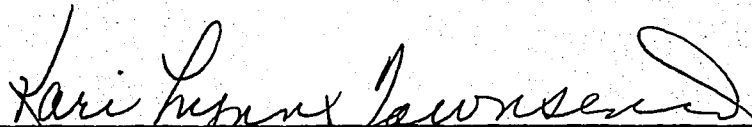
Enclosure

CERTIFICATE OF MAILING

I hereby certify that on the 19th day of NOVEMBER, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Order to Void Permit) to the person(s) listed below:

Permit 11-07438

VIC CONRAD
J R SIMPLOT COMPANY
PO BOX 27
BOISE ID 83707-0027



Kari Lynn Townsend
Secretary

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

December 15, 1997

RECEIVED

DEC 15 1997

Department of Water Resources

HAND DELIVERY

L. Glen Saxton
State of Idaho
Department of Water Resources
1301 North Orchard Street
P. O. Box 83720
Boise, Idaho 83720-0098

Re: Request for Reconsideration - IDWR Permit No. 11-07438.

Dear Mr. Saxton:

I was alarmed to discover that we missed the deadline for petitioning the Department to reconsider its decision to void this permit. Our oversight was inadvertent. It has always been our intent to obtain a water right for the water use developed under this permit.

Part of the delay in responding to the Department's proposed permit amendment is attributable to changing the permit identification number from 27-07294 to 11-07438. This is a significant change for Simplot since it transfers the administration of this right from the Snake River Basin to the Bear River Basin. We maintain a claim for this permit in the Snake River Basin Adjudication and up until now we have been tracking this permit under our file for permit no. 27-07294. We still have not received a clear explanation from the Department for its reason in making this transfer. However, to avoid future confusion we will make the necessary corrections in our record keeping system to cross reference both identification numbers.

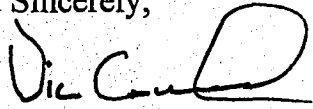
I have been conducting research to verify the Department's proposed annual diversion volume contained in the permit amendment mailed earlier. During my research I evaluated the water use at this location since it began in 1920. I spent considerable time interviewing Simplot personnel, retired Simplot employees and contractors who worked on the water system for Simplot's predecessor in interest. My research confirms the Department's recommendations in the proposed amendment.

I apologize for missing the petition deadline and I have made changes in our water right filing system to avoid confusion related to future correspondence for this permit. We respectfully request that you reconsider denying this permit since it should be licensed to the extent water use was developed in conformance with the Department's requirements. In the event our request is granted, and without waiving our right to object to the basin

Bringing Earth's Resources to Life

transfer made by the Department, I am enclosing the signed application to amend the permit as proposed by the Department and a \$50.00 check to cover your application fee.

Sincerely,

A handwritten signature in dark ink, appearing to read "Vic Conrad". The signature is stylized with a large, looped "C" and a distinct "V".

Vic Conrad
Simplot Land and Development

Enclosures



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

December 22, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JR SIMPLOT CO
PO BOX 27
BOISE ID 83707

RE: WATER RIGHT NO. 11-07438

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. 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 of the Department unless a party petitions for reconsideration or files an exception and/or brief 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 twenty-one (21) 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. Otherwise, this preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review the preliminary order, the Department 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 Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department 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 Department in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department 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 Department 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.

For your records I have also enclosed a copy of your Application for Amendment of Permit, which was approved.

If you have any questions, please call me at 208-327-7946.

Sincerely,


Shelley W. Keen
Water Rights Supervisor

SK:klt

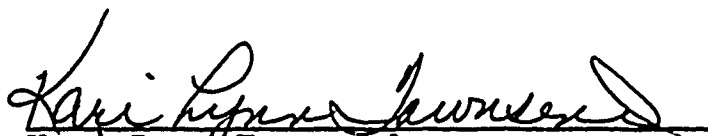
Enclosure

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of December, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

Water Right No. 11-07438

JR SIMPLOT CO
PO BOX 27
BOISE ID 83707


Kari Lynn Townsend
Secretary