STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 691

RECEIVED
MAY 17 2023
DEPT OF WATER RESOURCES

This is to certify that:

J R SIMPLOT CO
1099 W FRONT ST PO BOX 27
BOISE, ID 83707-0027

J R SIMPLOT CO
C/O JAMES B ALDERMAN PO BOX 27
BOISE, ID 83707-0027

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
24-4017	9/18/1890	SAGE CREEK	0.90	159	45.3	0.020	3.51
Combined Rental Totals			**0.90**	**159**	**45.3**	**0.020**	**3.51**

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2027. Use of rental water shall be authorized as of either the date this rental agreement takes effect or the first day of the rental season of use, in 2023, whichever occurs last.

Annual Rental Fee:

2023 - 2027: $365.70 annually

The full fee for the rental of the above-described right(s) is $365.70 per year for years 2023 - 2027. The rental fee includes an administrative fee of $365.70 per year for years 2023 - 2027. Note that the renter is obligated to pay only the administrative fees associated with the water right(s): 24-4017.

An annual payment shall be received by the Department on or before December 31 each year preceding the use of the rented water rights. The agreement will be void if payment is not received by the due date in a given year. Rental fees are non-refundable. To voluntarily terminate the agreement early, notify the Department in writing prior to the rental fee due date.

Total Water Use Authorized Under Rental Agreement

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)
INDUSTRIAL	0.90	113
Combined Total	0.90	113

**** The authorized water usage reflects a reduction from the water right elements rented, to account for the consumptive use of the historical irrigation practice.***

Detailed water right conditions are attached.

SCANNED
MAY 18 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 691

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

Signature of Renter — May 15, 2023 — Date

J. R. Simplot Company

By: James B. Alderman — Printed Name

Senior Vice President and Secretary — Title

*Title required if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

By _____ Date 5-18-23

BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Rental approved by IDWR _____ Date MAY 18, 2023

SCANNED
MAY 18 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 691

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

SAGE CREEK NESE Sec. 18, Twp 09S, Rge 46E, CARIBOU County

BENEFICIAL USE	DIVERSION RATE	VOLUME
INDUSTRIAL	0.90 CFS	113 AF

SEASON OF USE

From	To
4/15	10/15

RENTERS PLACE OF USE: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08S	45E	25																X	X
08S	45E	36	X																X
08S	46E	30											X						X
08S	46E	31						X	X		X	X	X	X			X		X
09S	45E	13													X	X	X	X	X
09S	45E	21									X		X	X	X	X	X	X	X
09S	45E	22									X	X	X	X	X	X	X	X	X
09S	45E	23	X	X	X	X			X	X	X	X			X			X	X
09S	45E	24		X	X		X	X	X	X	X	X	X	X					X
09S	45E	25						X											X
09S	45E	26	X																X
09S	45E	28					X	X											X
09S	46E	6		X L2	X		X L3									X	X		X
09S	46E	7			X		X			X	X	X		X		X	X		X
09S	46E	18		X			X			X	X	X	X	X			X		X
09S	46E	19		X			X	X											X

Total Acres: 0.0

RENTAL AGREEMENT CONDITIONS OF ACCEPTANCE

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other department application process.

SCANNED
MAY 18 2023

WATER SUPPLY BANK RENTAL AGREEMENT No. 691

3. Use of water under this agreement does not constitute a dedication of the water to renter's place of use, and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
5. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
6. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
7. Renter acknowledges and agrees that the Director may terminate authorization for the use of a water right based on a water right's priority date.
8. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
9. The Department reserves the right to revoke or modify this rental agreement upon a showing of injury.
10. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
11. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.
12. This rental does not grant any right-of-way or easement across the land of another.
13. Industrial use is for dust abatement for a mining access road.

SCANNED
MAY 18 2023

SUPERCEDED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 691

RECEIVED
MAY 0 3 2023
DEPARTMENT OF
WATER RESOURCES

This is to certify that:

J R SIMPLOT CO
1099 W FRONT ST PO BOX 27
BOISE, ID 83707

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
24-4017	9/18/1890	SAGE CREEK, tributary to Crow Creek	0.90	159	45.3	0.02	3.5
Rental Totals			**0.90**	**159**	**45.3**	**0.02**	**3.5**

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2027. Use of rental water shall be authorized as of either the date this rental agreement takes effect or the first day of the rental season of use, in 2023, whichever occurs last.

Annual Rental Fee:

2023 - 2027: $365.70. annually

The full fee for the rental of the above-described right(s) is $365.70 per year from 2023 – 2027. The rental fee includes an administrative fee of $365.70 per year for years 2023 - 2027. Note that the renter is obligated to pay only the administrative fees associated with the water right(s): 24-4017.

An annual payment shall be received by the Department on or before December 31 each year preceding the use of the rented water rights. The agreement will be void if payment is not received by the due date in a given year. Rental fees are non-refundable. To voluntarily terminate the agreement early, notify the Department in writing prior to the rental fee due date.

Total Water Use Authorized Under Rental Agreement

Beneficial Use	Month	Diversion Rate (CFS)	Diversion Volume (AF)
INDUSTRIAL	April	0.01	0.2
INDUSTRIAL	May	0.11	6.7
INDUSTRIAL	June	0.32	18.9
INDUSTRIAL	July	0.33	20.2
INDUSTRIAL	August	0.30	18.4
INDUSTRIAL	September	0.16	9.5
INDUSTRIAL	October	0.03	2.0
Combined Rental Total		**N/A**	**76.0**

**** The authorized water usage reflects a reduction from the water right elements rented, to account for enlargement concerns related to changing the nature of use.***

Detailed water right conditions are attached.

SCANNED
MAY 08 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 691

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

Signature of Renter

4-24-23
Date

**James B. Alderman
Printed Name

Senior Vice President and Secretary
Title

*Title required if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

By _____ Date _____
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Rental approved by IDWR _____ Date _____

**The applicant's signature is under an objection to the impositions of flow and volume made to decreed water right no. 24-4017 contained herein. By signing this Water Supply Bank Rental Agreement applicant is not making any admission and reserves all rights to assert a regulatory take and all other claims available for further attempts by the Idaho Department of Water Resources to diminish or erode applicant's real property interests under the water right or this rental agreement.

SCANNED
MAY 18 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 691

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

SAGE CREEK NESE Sec. 18, Twp 09S, Rge 46E, CARIBOU County

BENEFICIAL USE	From	To	DIVERSION RATE	VOLUME
INDUSTRIAL	4/15	4/30	0.01 CFS	0.2 AF
INDUSTRIAL	5/1	5/31	0.11 CFS	6.7 AF
INDUSTRIAL	6/1	6/30	0.32 CFS	18.9 AF
INDUSTRIAL	7/1	7/31	0.33 CFS	20.2 AF
INDUSTRIAL	8/1	8/31	0.30 CFS	18.4 AF
INDUSTRIAL	9/1	9/30	0.16 CFS	9.5 AF
INDUSTRIAL	10/1	1031	0.03 CFS	2.0 AF
Total			N/A	76 AF

SEASON OF USE

From	To
4/15	10/15

RENTERS PLACE OF USE: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08S	45E	25																X	N/A
08S	45E	36	X																N/A
08S	46E	30											X						N/A
08S	46E	31						X	X		X	X	X	X			X		N/A
09S	45E	13													X	X	X	X	N/A
09S	45E	21									X		X	X	X	X	X	X	N/A
09S	45E	22									X	X	X	X	X	X	X	X	N/A
09S	45E	23	X	X	X	X			X	X	X	X			X			X	N/A
09S	45E	24		X	X		X	X	X	X	X	X	X	X					N/A
09S	45E	25						X											N/A
09S	45E	26	X																N/A
09S	45E	28					X	X											N/A
09S	46E	6		X L2	X		X L3									X	X		N/A
09S	46E	7			X		X			X	X	X		X		X	X		N/A
09S	46E	18		X			X			X	X	X	X	X			X		N/A
09S	46E	19		X			X	X											N/A

Total Acres: N/A

SCANNED
MAY 18 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 691

RENTAL AGREEMENT CONDITIONS OF ACCEPTANCE

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other department application process.
3. Use of water under this agreement does not constitute a dedication of the water to renter's place of use, and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
5. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
6. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
7. Renter acknowledges and agrees that the Director may terminate authorization for the use of a water right based on a water right's priority date.
8. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
9. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
10. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.
11. This rental does not grant any right-of-way or easement across the land of another.
12. Industrial use is for dust abatement for a mining access road.

SCANNED
MAY 18 2023

Form 42-1761-2 10/15

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED
OCT 25 2022
DEPARTMENT OF
WATER RESOURCES

APPLICATION TO RENT WATER FROM THE BOARD'S WATER SUPPLY BANK

Applicant Name: J. R. Simplot Company

Is this application being submitted with a lease application as a lease/rental package? Yes ☑ No ☐
If yes, specify companion water rights in Section 4

This application must be completed according to the minimum requirement checklist below. This checklist is part of the rental application and must be included with the rental application. **Applications that do not meet the minimum requirements will not be placed in the processing queue and may be returned until all minimum requirements have been met.**

Rental applications should be submitted well in advance of the desired start date for the use of rental water. Rental applications may be processed as early as November 1 of the year prior to the intended use of rental water. Any rental application received on or before November 1 for use in the next year will be assigned a received date of November 1. Rental applications submitted more than one year in advance of the proposed start date for the use of rental water will not be accepted and will be returned to applicants. Rental applications may be returned to applicants if the desired start date for the use of rental water cannot be accommodated by the Water Supply Bank. Rental requests will not be accepted once the rental season of use period has concluded.

One rental application per beneficial use of water. For multiple beneficial uses of water, separate rental requests should be submitted for each unique beneficial use of water. One rental application can be submitted if you propose to rent water from multiple sources.

For additional instructions on completing a rental application, visit the Bank's website at http://idwr.idaho.gov/water_supply_bank.

MINIMUM REQUIREMENT CHECKLIST

Check All Items as Either Attached (Yes) or Not Applicable (N/A)

Attachment	N/A	Yes	
		Yes	
		☑	Completed *Application to Rent Water from the Board's Water Supply Bank*
		☑	Confirmation that this form has been printed single sided, per requirement of the Water Supply Bank
2		☑	A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request
3A	☑	☐	Detailed information on a proposed use of rental water
3F	☑	☐	Authorization from the owner/operator of the rental point(s) of diversion
3H	☑	☐	Water modeling to account for the impacts of the rental request
3J	☑	☐	Documents justifying a rate of flow greater than 0.02 cfs/acre
3K	☑	☐	Authorization from the owner/operator of the property at the proposed rental place(s) of use
4B	☑	☐	Explanation of how the rental water will sufficiently accomplish your rental purposes
4C	☑	☐	Explanation of consumptive use amounts for water rights experiencing a change in nature of use

Department Use Only – Proposed Water Right(s)

24-4017

SCANNED
MAY 18 2023

2476

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant J. R. Simplot Company

Mailing Address P. O. Box 27, Boise, Idaho 83707
Street City State Zip Code

Email Address vic.conrad@simplot.com Phone Number 208-780-7359

B. Is this application being completed by an authorized representative on behalf of the applicant? Yes ☑ No ☐
If yes, representatives (includes company employees if the applicant is a corporation, as well as legal counsel or consultants) should provide their information below if they desire to be included on correspondence with the rental applicant.

Representative James B. Alderman Professional Title Sr. V.P. and Secretary

Organization Same as Applicant Relationship to Applicant Same as Applicant

Mailing Address Same as Applicant

Email Address _____ Phone Number _____

2. MAP

Create a map of the proposed point(s) of diversion, place(s) of use and water diversion, delivery and distribution systems. Make sure the rental place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to irrigate. Attach the map to this application and label it **Attachment 2**.

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

A. Describe why you desire to rent water and provide a detailed description of your proposed use. If the proposed use is not for irrigation, describe in detail how you determined the amount of rental water required. If the space below is insufficient, attach additional sheets as required and label them **Attachment 3A**:
Water will be diverted from the South Fork of Sage Creek into a storage that will be used to fill water trucks. After the trucks are filled, water will be applied for dust suppression on a mine haul road.

B. Enter the desired and/or minimum rates of flow, volume, or irrigable acres requested for your rental purposes:

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Desired Acres (if applicable)
0.9 CFS	113.5 AF	CFS	AF	AC

* ***Sometimes water rights provide an exceptionally low rate per acre and/or low volume per acre. This section is meant to establish an acceptable range of water sufficient for your proposed water use. Please see question 4B and complete if necessary.***

C. This section must be completed in full. Enter the proposed start date and latest possible start date for using rental water as well as the number of years you would like to rent water. The latest possible start is the latest possible date by which you would be willing to pay for a rental and be able to benefit from utilizing rental water.

Desired Start Date (month/day/year)	Latest Possible Start Date (month/day/year)	*Mark Desired Rental Duration (Calendar Years)					**Applicant's preference if rental application cannot be processed prior to the latest possible start?	
April 15, 2023		☐ 1	☐ 2	☐ 3	☐ 4	☑ 5	☑ Process application as soon as possible	☐ Return application to applicant

* ***The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.***
** ***Per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right. Water Supply Bank rental applicants are not authorized to utilize rental water prior to the execution of an approved rental agreement. Rental requests may be returned to applicants if no water is available from the Bank to fulfill a rental request.***

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MAY 18 2023

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

D. Describe your water distribution system and how rental water will be delivered from the point(s) of diversion (POD) to the proposed place of use (POU):
Water will be diverted using a suction intake, pump, motor & pipeline into a water storage. Water trucks will be filled from the storage then will be applied to a mine haul road for dust suppression.

E. Describe the physical type (pump, headgate, etc.) and location of the POD from which rental water is proposed to be diverted:

POD Description	Water Source	Other Water Rights Diverted from this POD
T9S R46E Sec 18 SENESE	South Fork Sage Creek	None

If the POD(s) above are located where water is turned into a canal, lateral or ditch, or if they are located on your property but are serviced by water that is delivered via a canal, lateral or ditch, your rental request must include documented authorization from all relevant canal companies, irrigation districts and/or water delivery entities, confirming that they consent to your diversion of water from their system.

F. Has documented consent from all relevant water delivery entities been obtained? Yes ☑ N/A ☐
If yes, include documented consent as **Attachment 3F**.

G. Do any POD(s) identified in Question 3E divert from a water source that may require water modeling? Yes ☐ No ☑
Refer to the Water Modeling Requirements Information Sheet to determine if a rental POD may require water modeling.

H. Has water modeling been provided with your rental request? Yes ☐ N/A ☑
If yes, label modeling Attachment 3 H.
Rental applications that require modeling will be returned if modeling is not provided.

I. Specify the desired beneficial use of water and the requested season of use or number of acres required:

☐ Irrigation _____ (number of acres) Duration: Subject to IDWR standard seasons of use
☐ Commercial from: _____ (mm/dd) to: _____ (mm/dd)
☐ Stockwater from: _____ (mm/dd) to: _____ (mm/dd)
☐ Industrial from: _____ (mm/dd) to: _____ (mm/dd)
☐ Other: Dust Suppression from: April 15 (mm/dd) to: Oct 15 (mm/dd)

J. For irrigation uses, do you propose to divert water at a rate greater than 0.02 cfs/acre? N/A ☑ Yes ☐ No ☐
If yes, justify the rate of flow and attach any supporting documents as **Attachment 3J**. Justification may include information on soil composition, conveyance losses, crop type, irrigation systems, public access areas, etc. A rate of 0.03 cfs/acre is permissible for irrigation of 5 acres or less.

K. Do you own the land at the proposed rental place of use (POU)? Yes ☐ No ☑
If no, attach documentation from the POU owner/operator confirming your authorization to use the POU and label it **Attachment 3K**.

L. List all other water rights and sources of water at the rental place of use for the same purpose, including privately owned water rights and water received from a municipal supplier, an irrigation district, a canal company or any other water delivery entity. Explain why additional water is required:
NA

SCANNED
MAY 18 2023

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

4. RENTAL REQUESTS FOR SPECIFIC WATER RIGHTS

A. Are you requesting to rent specific water rights? Yes ☑ No ☐

If yes, specify below the elements of the water rights you are requesting to rent. **If no,** continue to Question 4B.

Important Information: Diversion rates and volumes sought for rent must be proportionate to the per acre diversion rates and per acre volume limits of the water right under lease contract to the Water Supply Bank. Prior to completing this section, applicants should review all water right lease contracts and any active rental agreements to determine which elements of a water right are available to satisfy a rental request. Lease and rental documents are searchable via IDWR's website.

Water rights identified below must either already be leased to the Bank or a lease proposal should accompany this rental request. **Rental requests for water rights not yet leased to the Bank will be returned if companion lease applications are not provided with the rental request**. For leased rights featuring combined limits, rentals must be consistent with combined diversion rate, volume or acre limits. Combined limits should be listed on a row below water right numbers.

Water Right Elements Leased to Water Supply Bank					Leased totals, minus water right elements involved in active rental agreements, equals water right elements available for rent	Water Supply Bank Rental Request		
Water Right Number (leave blank if sub-total of combined limits)	Nature of Use	Diversion Rate (CFS)	Volume (AF)	Acres (AC)		Diversion Rate (CFS)	Volume (AF)	Acres (AC)
24-4017	Irrigation	0.9	181.2	45.3		0.9	181.2	45.3
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank					**TOTAL**	0.9	181.2	45.3
						CFS	**AF**	**AC**

****Attach multiple copies of this page if space above is insufficient to list all water rights requested to be rented on this application.***

B. If water right conditions, combined limits, or the sum of all water right elements being requested provide an unconventional duty of water (e.g., an unusually low rate per acre or volume per acre for irrigation use), explain how your proposed rental will sufficiently accomplish your intended purposes. Attach a separate page if space is insufficient and label it **Attachment 4B**:

C. Does your rental request propose to change the nature of use for any water right(s) being rented? Yes ☑ No ☐

If yes, explain how the water right(s) will be converted to new uses. Include the historic, consumptive use amounts for the water right being rented if you have it, as well as the new consumptive use amount for your proposed beneficial use. If space below is insufficient, attach a separate page and label it **Attachment 4C**:

Water will be used for dust suppression in lieu of irrigation

SCANNED
MAY 18 2023

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes ☐ No ☑
If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs:
Water has been rented for the same purpose for the last several years. The proposed use is temporary and will cease once mining is complete.

B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental?
If yes, describe: Yes ☐ No ☑

C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes ☐ No ☑
If yes, describe the date and location of the NOV.

D. Additional Information

DECLARATION

I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval. I understand that if this rental application is approved, it will be subject to the provisions of Section 42-1766, Idaho Code and all applicable state and federal laws. I understand that the submission of a rental application provides no guarantee for approval of a rental agreement. I also understand that, per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right and that I am not authorized to utilize water as proposed in this application prior to the execution of an approved rental agreement.

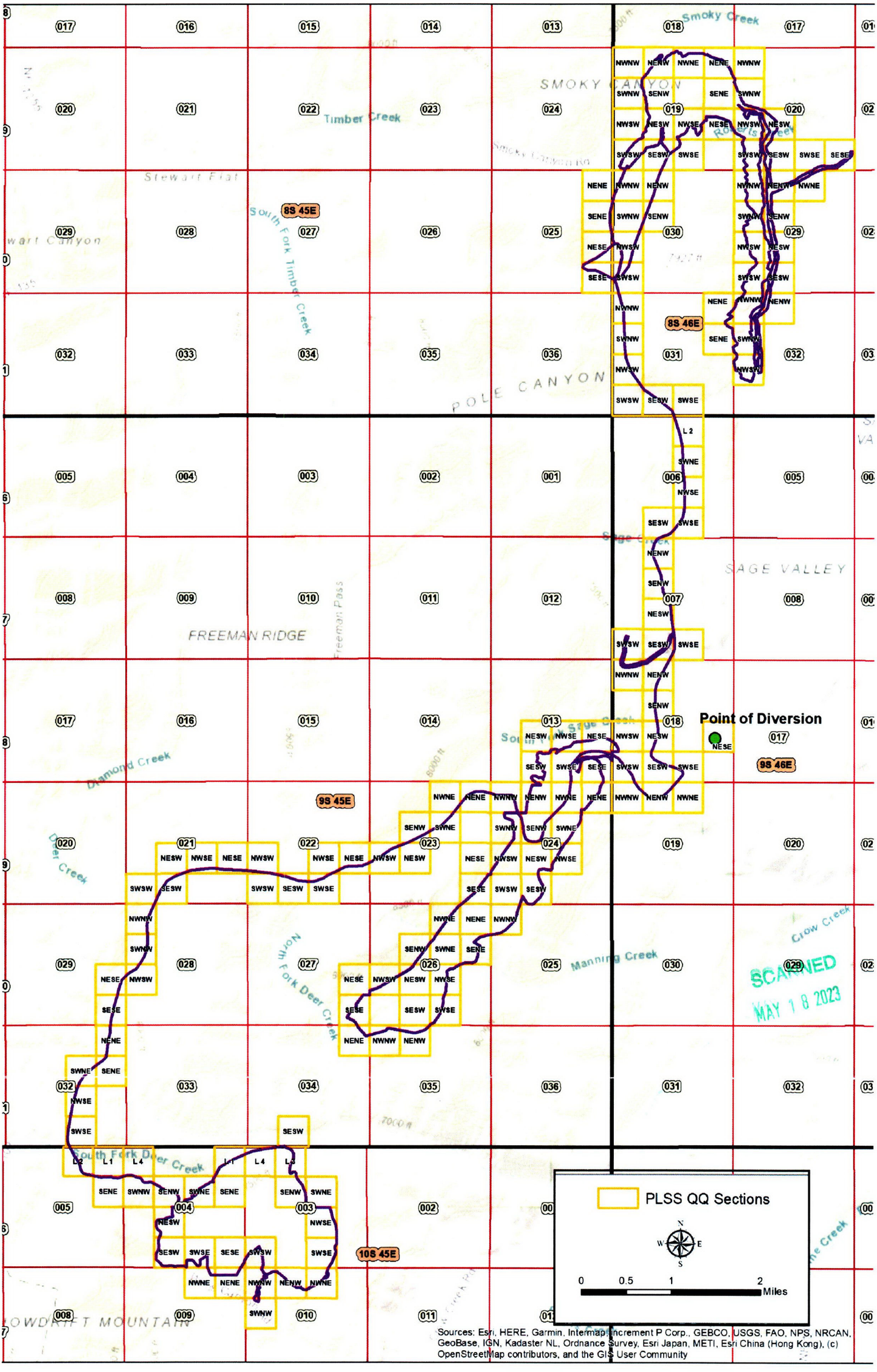
Signature of Applicant	James B. Alderman Printed Name of Applicant	October 20, 2022 Date
Signature of Representative	Senior Vice President and Secretary Printed Name of Representative	Date

Mail to:

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

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MAY 18 2023

Application to Rent Water from the Water Supply Bank for Dust Abatement 2023-2028



WSB Mailing Checklist for Rentals

(For use on all new rental applications)

Key: Who Completes What?
CLERICAL STAFF: MK
REVIEWER:

Received Date: 10/25/2022
Latest Start Date: 4/15/2023
Renter: J R Simplot Co.
Rental Expiration Date _____
Lease/Rental Package (Y) N

Application # 2476 Agreement # 691

Water Right	Lease Contract ID
# 24-4017	
#	
#	
#	
#	
#	
#	
#	
#	
#	
#	
#	
#	

Applicant Authorized?	(Y) / N
Map of POU and POD	(Y) / N
POD consent?	(Y) / N
ESPA Modeling?	Y / N (NA)
Application Complete?	(Y) / N
Minimum Checklist in database?	☑
Request for additional information letter sent:	Y NA
WSB Action Request for deficiencies	☐

Comments:
Chg in NOU → Irrigation to Dust Suppression
prev agreement # 208 & #132

Mailings (per application)	Original	CC	Email or Address
Renter: _____	☐	☐	_____
Attorney: _____	☐	☐	_____
Consultants Name: _____	☐	☐	
Conveyence Entity: _____ Ex. Irrigation Dist. of Canal Co.	(final only)	☐	
(Ground) Water Dist: _____	(final only)	☐	
Other: _____ WD Snake 01, Boise, Payette, and Bear River	(final only)	☐	_____
Region: _____	(final only)	☐	
Watermaster: _____	(final only)	☐	
Compliance: _____	(final only)	☐	

Resolving NOV? Y / N
#

Call up Date: _____

DO NOT SCAN

IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

MAY 19, 2023

JR SIMPLOT CO
1099 W FRONT ST PO BOX 27
BOISE, ID 83707-0027

RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 24-4017, AGREEMENT 691

Dear Renter:

Please find enclosed a receipt in the amount of **$365.70** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 159 acre-feet of water from 2023. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Since you are both the lessor and the renter of the right(s), **you are only obligated to pay the 10% administrative fee or $365.70** for 2023.

If you have any questions, please contact this office at bank@idwr.idaho.gov or (208) 287-4800.

Sincerely,

Water Supply Bank

Enclosures: Receipt No. C116176
Rental Agreement (copy)

c: Sascha Marston – Fiscal
IDWR Eastern Regional Office

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MAY 18 2023

J.R. Simplot Company
P.O. Box 27, Boise, Idaho
83707 0027

1099 West Front Street
Boise, Idaho 83702

Vic.conrad@simplot.com
208 780 7359 Business
208 780 7333 Fax

RECEIVED
MAY 17 2023
DEPARTMENT OF
WATER RESOURCES

May 15, 2023

Brian Patton
Executive Officer
Idaho Water Resource Board
P. O. Box 83720
Boise, ID 83720-0098

Re: IDWR Water Right 24-4017; Amended Water Bank Rental Contract 691.

Dear Brian:

Enclosed is an amendment to Water Supply Bank Rental Agreement No. 691 originally delivered to you on May 3, 2023. For your signature, please substitute the attached for the May 3 form of this Agreement.

With the May 3 delivery, a check in the amount of $365.70 to cover your fees for Simplot's use of the rented water during 2023 was included. Please apply that $365.70 check toward covering the rental fees due during 2023.

If acceptable, please sign and arrange for IDWR's signature. Once complete please return the fully executed Agreement to me.

Sincerely,

Vic Conrad
Land, Water & Asset Recovery

Enclosures

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MAY 18 2023

Parker, Cody

From: Conrad, Vic <Vic.Conrad@simplot.com>
Sent: Tuesday, May 9, 2023 9:22 AM
To: Parker, Cody
Subject: RE: [EXTERNAL] Rental Application 2476 from Sage Creek

CAUTION: **This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.**

Thank you Cody.

From: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Sent: Tuesday, May 9, 2023 9:17 AM
To: Conrad, Vic <Vic.Conrad@simplot.com>
Subject: RE: [EXTERNAL] Rental Application 2476 from Sage Creek

Vic,

Thank you, this is exactly what I needed. Given this data, I think I will just go ahead and reproduce the rental agreement from years past. I will hopefully have a new draft to you by this afternoon. Thanks for your patience.

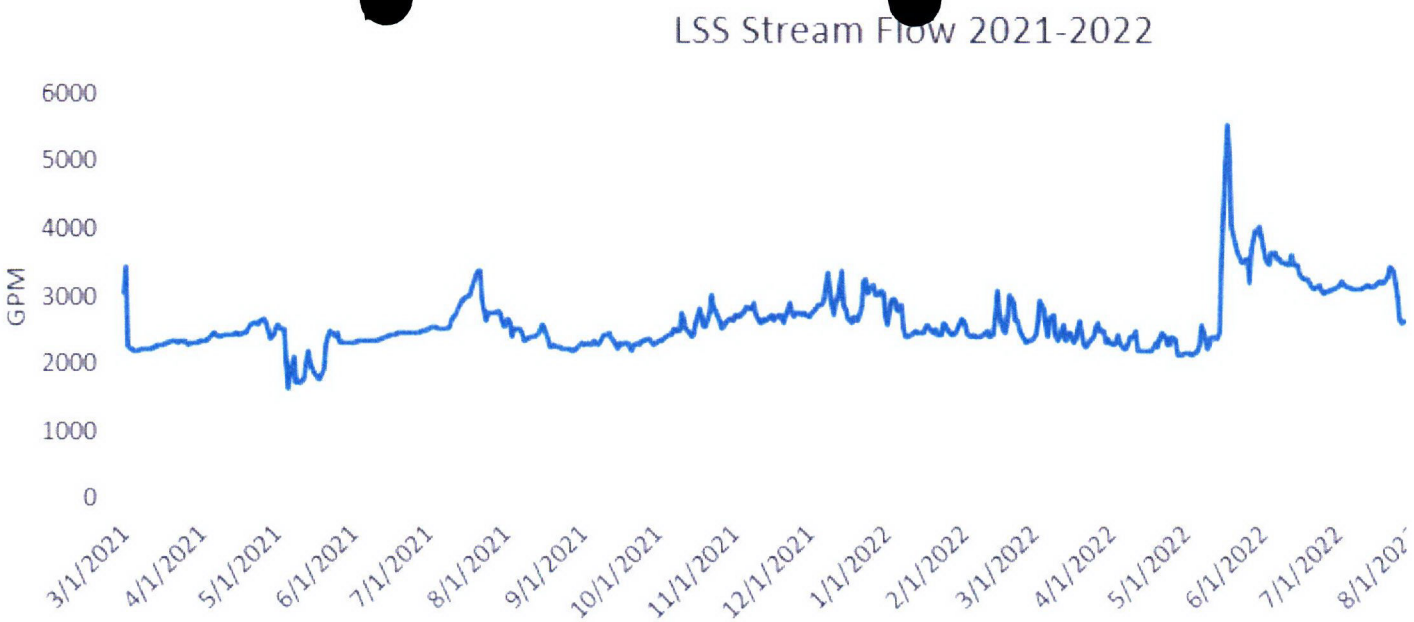
Cody

From: Conrad, Vic <Vic.Conrad@simplot.com>
Sent: Tuesday, May 9, 2023 9:13 AM
To: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Subject: RE: [EXTERNAL] Rental Application 2476 from Sage Creek

CAUTION: **This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.**

Cody,
Below are the flows of South Fork Sage Creek measured upstream of the rental diversion shown in graph form since March, 2021. Let me know if you need the data for this period.

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MAY 18 2023



From: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Sent: Tuesday, May 9, 2023 8:06 AM
To: Conrad, Vic <vic.conrad@simplot.com>
Subject: [EXTERNAL] Rental Application 2476 from Sage Creek

[Warning: External Email]
Good morning Vic,

You mentioned that Simplot measures the flow on South Fork Sage Creek upstream of the rental diversion and that the flow there never gets below 2,000 gallons per minute. Do you happen to have that data recorded? If so would you be able to send it my way?

Cody Parker
Water Rights Supervisor
208-287-4910

Idaho Dept. of Water Resources
322 E Front St, PO Box 83720, Boise ID 83720
idwr.idaho.gov

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MAY 18 2023

J.R. Simplot Company
P.O. Box 27, Boise, Idaho
83707 0027

1099 West Front Street
Boise, Idaho 83702

Vic.conrad@simplot.com
208 780 7359 Business
208 780 7333 Fax

RECEIVED
MAY 0 3 2023
DEPARTMENT OF
WATER RESOURCES

May 3, 2023

Hand Delivery
Brian Patton
Executive Officer
Idaho Water Resource Board
P. O. Box 83720
Boise, ID 83720-0098

Re: IDWR Water Right 24-4017; Water Bank Rental Contract 691.

Dear Brian:

Enclosed is Water Supply Bank Rental Agreement No. 691 signed by Simplot under objection to the arbitrary, unsupported limits proposed by IDWR staff to Simplot's use of its water right. I am also enclosing a check in the amount of $365.70 to cover your fees for the use of the rented water during 2023.

In addition also enclosed is a copy of a Petition for Reconsideration, Modification and Request for Hearing on Water Supply Bank Rental Contract 691 filed on this same day with the IDWR.

Sincerely,

Vic Conrad
Land, Water & Asset Recovery

Enclosures

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MAY 1 8 2023

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MAY 03 2023
DEPARTMENT OF
WATER RESOURCES

Rebecca Voss ISB No. 9580
Counsel Corporate and Real Estate Transactions
J. R. Simplot Company
1099 W. Front Street
Boise, ID 83702
(208) 336-2110
(208) 389-7464 (Facsimile)

Attorney for Simplot

BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF WATER SUPPLY BANK RENTAL AGREEMENT 691 IDAHO DEPARTMENT OF WATER RESOURCES WATER RIGHT 24-4017	Case No. _____ **J. R. SIMPLOT COMPANY PETITION FOR RECONSIDERATION, MODIFICATION AND REQUEST FOR HEARING ON WATER SUPPLY BANK RENTAL CONTRACT 691**

J. R. SIMPLOT COMPANY ("Simplot") respectfully requests the Idaho Department of Water Resources ("IDWR") to reconsider its conditions of approval for WATER SUPPLY BANK RENTAL AGREEMENT NO. 691 ("Rental Agreement") to remove or revise certain restrictive conditions inserted by IDWR related to the flow rates and volumes for the Rental Agreement. This Petition is filed by Simplot pursuant to Idaho Code Sections 42-1766 and 42-1701A(3).

BACKGROUND

1. Simplot owns Idaho Department of Water Resources water right no. 24-4017 decreed in the Snake River Basin Adjudication with a September 18, 1890 priority, for the diversion from Sage Creek at a rate of up to 1.4 cfs for the irrigation of 70.3 acres. Beginning in 2010, Simplot leased 45.3 acres, 0.9 cfs and 159 acre feet of the Water Right to the Idaho Water Supply Bank ("Water Bank") and rented from the Water Bank the same flow and volume for the purpose of conducting dust abatement on a mine haul road. The lease/rental continued from 2010 up to December 31, 2022, when the terms of the lease/rental agreements expired.

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MAY 18 2023

2. On approximately October 20, 2022, Simplot submitted new applications for lease/rental of the same Water Right 24-4017, together with IDWR's filing fees for the same acres, flow and volume as the previous 12 consecutive years seeking the rights to continue using water for dust suppression purposes. In March 2023 IDWR issued Water Supply Bank Lease Contract No. 1620 with the same diversion rate, volume and acres as contained in the previous 12 consecutive years. Simplot signed Water Supply Bank Lease Contract No. 1620 and returned it to the IDWR for signature.

3. On April 10, 2023, Simplot received the Rental Agreement from IDWR. The Water Rental Agreement contains the following variable monthly limits restricting flow and volume:

Beneficial Use	Month	Diversion Rate (CFS)	Diversion Volume (AF)
INDUSTRIAL	April	0.01	0.2
INDUSTRIAL	May	0.11	6.7
INDUSTRIAL	June	0.32	18.9
INDUSTRIAL	July	0.33	20.2
INDUSTRIAL	August	0.30	18.4
INDUSTRIAL	September	0.16	9.5
INDUSTRIAL	October	0.03	2.0
Combined Rental Total		**N/A**	**76.0**

During the previous 12 consecutive years Simplot has leased the same 45.3 acres of Water Right 24-4017 to the Water Supply Bank for the specific purpose of renting the rate of flow necessary to meet Simplot's dust suppression requirements. The proposed limits, and in particular the variable monthly limitations on diversion rate, cannot meet Simplot's dust suppression requirements.

ARGUMENT

Simplot's existing dust abatement system consists of a pipe installed within South Fork of Sage Creek that transports water to a concrete vault constructed beside the creek. Using a 75-horsepower motor and pump, water is diverted from the vault at a rate of up to 350 gallons per minute and lifted several hundred vertical feet through an 8-inch diameter pipe to a lined reservoir constructed with a total design capacity of 283,490 gallons. Water from the reservoir is then

SCANNED MAY 18 2023

discharged periodically to trucks, each equipped with 30,000-gallon tanks, and applied to an improved gravel road for suppressing dust. This road is used to transport equipment and ore. When water is not pumped from the vault, water is returned to the creek.

Simplot's dust abatement requirements vary depending on the mining location. The location influences the distance ore must be transported to the mill where ore is processed then shipped approximate 92 miles via underground pipeline to Simplot's manufacturing facility located near Pocatello, Idaho. The length of road treated for dust abatement from this system varies day-to-day from 0 to 14 miles. The diversion from South Fork Sage Creek is controlled with a float in the reservoir and operates only when the level triggers the pump located in the concrete vault. The system operates intermittently depending on demand. Dust abatement is a requirement of the United State Forest Service, who owns the land on which the road is constructed.

The distance required for treatment in 2022 was a maximum-case condition due to the location mining occurred. During 2022, Simplot diverted 23,000,000 gallons (70.58 acre feet of the 159 acre feet allowed under the rental agreement that expired December 31, 2022) from South Fork Sage Creek for dust abatement. In 2023, mining will be much closer to the reservoir, consequently it is anticipated water required for treating dust will be less than the amount used from the system in 2022.

The South Fork Sage Creek diversion is located on land owned by Simplot. The creek continues flowing past the diversion for approximately 1.2 miles to the confluence with the mainstem of Sage Creek. Downstream of the confluence Sage Creek continues for another 1.3 miles to Simplot's decreed point of diversion identified under water right 24-4017. The adjacent land on both sides of South Fork Sage Creek, the confluence and Sage Creek from the diversion to the decreed diversion point are owned by Simplot. No other parties divert water from these sources within the stream segments described. Any hypothetical and potential impacts arising from the intermittent operation of the dust suppression diversion are fully corrected over the approximately 2.5 miles of stream below the diversion to the next water right holder's point of diversion from Sage Creek.

The conditions proposed for limiting water use under the Rental Agreement to monthly diversion rates and volumes described above are arbitrary, unsupported and based on claims of hypothetical injuries to other water users that do not exist. In addition, the proposed conditions restricting the flow rate and volume effectively make Simplot's right to use its water under the

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MAY 18 2023

Rental Agreement null and diminish the real property interests of Simplot in exercising its rights to the use of water appropriated under its decreed Water Right 24-4071. Without factual basis, IDWR staff purports Simplot continues to irrigate the leased place of use when Simplot has not diverted and applied water that portion of Water Right 24-4017 which has been leased to the Water Supply Bank for the previous 12 consecutive years. In lieu of denying Simplot's application to rent water for an additional 5 years, IDWR is imposing conditions on the use of the water under the Rental Agreement that effectively restrict Simplot's ability to use its Water Right to zero.

CONCLUSION

Because the conditions do not exist for limiting the use of water as proposed in the Rental Agreement, Simplot requests your consideration to return to the same conditions contained in the rental agreement issued during the previous 12 consecutive years, and specifically allow the full diversion rate and volume as is decreed under Water Right 24-4017 and leased to the Water Supply Bank. As an alternative, Simplot may support an amended approval limiting the annual volume diverted as proposed in the Rental Agreement at a diversion rate not to exceed 350 gallons per minute (0.78 cfs). In the event of an affirmative denial of this Petition by IDWR or a denial due to a non-response, please consider this Petition a request for a hearing pursuant to Section 42-1701A(3), Idaho Code.

Dated this 3rd day of May, 2023.

J. R. SIMPLOT COMPANY

By: Rebecca Voss
Counsel Corporate and Real Estate Transactions

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MAY 18 2023

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May ___, 2023, I served by hand delivery the foregoing PETITION FOR RECONSIDERATION OR MODIFICATION AND REQUEST ON CONDITIONS IMPOSED ON WATER SUPPLY BANK RENTAL CONTRACT 691 83876 to the address listed below:

RE: Water Supply Bank Rental Agreement 691
Water Right No.: 24-4017

Idaho Department of Water Resources
Attn: Gary Spackman, Director
322 East Front Street, Suite 648
Boise, ID 83702

Diana Gastanaga May 3, 2023
Diana Gastanaga
Administrative Services & Properties Manager

SCANNED
MAY 18 2023

Parker, Cody

From: Conrad, Vic <Vic.Conrad@simplot.com>
Sent: Wednesday, April 26, 2023 5:01 PM
To: Parker, Cody
Subject: RE: [EXTERNAL] WSB Rental Application

CAUTION: **This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.**

Mr. Parker:
Our diversion and use of the dust abatement system is infrequent. When water is diverted, it is diverted at a high rate for short periods of time then not operated again for varying intervals. As stated earlier, the diversion rate is problematic. We may be able to conform to the proposed volume limits, however the diversion rate will not accomplish our needs.

There is no injury to any other water right holder in our use of the system. If you feel it helpful for me to describe our system in more detail, please let me know.

From: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Sent: Wednesday, April 26, 2023 3:57 PM
To: Conrad, Vic <vic.conrad@simplot.com>
Subject: [EXTERNAL] WSB Rental Application

[Warning: External Email]
Hey Vic,

I have some updated numbers for you for the JR Simplot rental for dust abatement. The dataset we used to calculate the monthly values was based on an average of three different alfalfa datasets. Using those datasets is consistent with the previous applications of the method. However, after talking with Mary today I think we can just use the peak alfalfa dataset to try to maximize the water you can use under this method. Below are the new numbers I propose (the new numbers are shown in red)

Beneficial Use	Month	Diversion Rate (CFS)	Diversion Volume (AF)
INDUSTRIAL	April	0.01	0.2 (0.3)
INDUSTRIAL	May	0.11 (0.13)	6.7 (8.5)
INDUSTRIAL	June	0.32 (0.38)	18.9 (22.9)
INDUSTRIAL	July	0.33 (0.48)	20.2 (29.8)
INDUSTRIAL	August	0.30 (0.41)	18.4 (25.2)
INDUSTRIAL	September	0.16 (0.24)	9.5 (14.0)
INDUSTRIAL	October	0.03 (0.05)	2.0 (3.4)
Combined Rental Total		**N/A (0.48*)**	**76.0 (104)**

**0.48 is the maximum diversion rate throughout the season*

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MAY 18 2023

While I'm not sure it's what you're looking for, it at least increases the rate and volume throughout the late season. If you are ok with these numbers, I would be happy to draft and send a new rental agreement to sign with these values. If not I can email you a word document with these values and we can proceed as before.

Thanks,

Cody Parker
Water Rights Supervisor
208-287-4910

Idaho Dept. of Water Resources
322 E Front St, PO Box 83720, Boise ID 83720
idwr.idaho.gov

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MAY 18 2023

IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

April 3, 2023

J R SIMPLOT CO
PO BOX 27
BOISE ID 83707

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 24-4017, AGREEMENT 691

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have enclosed a Water Supply Bank Rental Agreement for your review and signature.** Upon signature and return of the original agreement, together with the rental fee described below, the Department will also sign the original agreement and return an executed copy to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

A rental fee of **$3,657.00 per year** was calculated based on the current rental rate of $23.00 per acre-foot times a diversion volume of 159.0 acre-feet. Since you are both the lessor and the renter of the right, **you are only obligated to pay the 10% administrative fee or $365.70.** An annual payment shall be received by the Department prior to the execution of this agreement and prior to January 1 in all subsequent years for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

Please send a check in the amount of $365.70 for 2023 made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing.

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,

Water Supply Bank

Enclosure

c: IDWR Front Desk

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MAY 18 2023

MEMORANDUM FOR AGREEMENT # 691

To: Water Right No. 24-4017

From: Skyler Cheever – Water Resource Agent

Date: 12/9/2022

Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

---

PURPOSE/NARRATIVE:
Application 2476 was sent in by the J.R. Simplot Company and received on October 25th, 2022. The application proposes to rent their own lease contract,1620, from the water supply bank from 2023-2027. The point of diversion is within the Snake River Moratorium, and Non-Trust Water Area. This water right has been rented continuously under a lease/rental package since 2010. The current rental is sent to expire December 31st, 2022. The application proposes to change the nature of use from irrigation to industrial for dust suppression.

AUTHORITY TO FILE:
James Alderman signed the application. Mr. Alderman has the authority to file this application because he is the Sr. Vice Pretendent and Secretary of the Company according to the Idaho Secretary of State's Office Database. The place of use is owned by Caribou-Targhee National Forest. They have an agreement with Simplot and the Idaho Department of Environmental Quality requiring dust suppression on the road accessing Smokey Canyon Mine. JR Simplot is the current owner of water right 24-10034, authorizing access to the point of diversion according to Department records.

INJURY TO OTHER WATER RIGHTS
The point of diversion is moving 1.2 miles downstream of the lease POD. This would be unlikely to cause injury to the few users in-between. The application also proposes to change the nature of use from irrigation to industrial. This will reduce the volume to monthly consumptive use values determined from ET Idaho Data. This would further prevent injury because those values ensure there is water flowing in Sage Creek throughout the irrigation season. There are no other injury concerns.

ENLARGEMENT OF USE:
The leased place of use for water right 24-4017 appears to have been irrigated in the time since it was leased into the bank in 2010. However, conversations with Vic Conrad of JR Simplot lead me to believe that the land benefits from natural subirrigation. Spatially averaged mean NDVI values for 2022 do not exceed 0.6. No adjustments are made to the annual volume based on natural subirrigation. The volume available in the rental is the result of precipitation deficit values from the Afton site.

This application proposes to change the nature of use from irrigation to industrial. To prevent enlargement of use rate and volume will be reduced to the calculated monthly consumptive volume and equivalent rate value according to ET Idaho data. The diversion rate and volume will be dependent on monthly rates to ensure that there is enough flow in Sage Creek throughout the year.

LOCAL PUBLIC INTEREST:
Review staff has no information to suggest this application is inconsistent with the local public interest.

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MAY 18 2023

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:
The rental appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS:
The point of diversion is within Basin 24 and Water District 01. The Water Master and Eastern Regional Manager were contacted on December 13th, 2022. No response was received, it is assumed there is no concern.

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MAY 18 2023

Cheever, Skyler

From: Cheever, Skyler
Sent: Tuesday, December 13, 2022 10:58 AM
To: Olenichak, Tony; Cefalo, James
Subject: Comment Email for Rental Agreement 691
Attachments: Rental Agreement 691.docx; Rental Map 691.pdf; Rental Review Memo 691.docx

Hello Mr. Cefalo and Mr. Olenichak,

I am currently reviewing a Water Supply Bank Rental within Basin 24 and Water District 1. The applicant is the J.R. Simplot Co. The application proposes to rent contract 1620 from the water supply bank. This rental is a continuation of rentals starting in 2010. The rental proposes to change the nature of use from irrigation to industrial for dust abatement. Attached to this email is the draft review memo, draft map of the place of use and draft agreement. Please send any comments if applicable in 14 days. If you have any questions or need clarification, please let me know.

Best,

Skyler

Skyler Cheever
Water Resource Agent, State Office
Email: skyler.cheever@idwr.idaho.gov
Phone: 208-287-4913

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MAY 18 2023

new approach, but it is not unique to this rental application. We took a similar approach in a recent Suez transfer which converted irrigation to municipal use. We also used this approach in a permanent WSB rental that converted irrigation use to Minimum Stream Flow use for the Board. It is generally the direction we have received from above.

To determine the monthly consumptive use, we used average ETIdaho data from three different alfalfa datasets. The data represents the consumptive use and is given in mm/day. We converted that to acre feet to get the monthly diversion volumes. Then we calculated the 24-7 rate that would produce the monthly volume.

I hope this helps. Please feel free to follow up with me if you have any questions.

Thanks

Cody

From: Conrad, Vic <Vic.Conrad@simplot.com>
Sent: Tuesday, April 18, 2023 2:07 PM
To: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Subject: RE: [EXTERNAL] RE: Proposed Agreement to Rent Water No.

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Cody just following-up on this.

From: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Sent: Friday, April 14, 2023 3:38 PM
To: Conrad, Vic <Vic.Conrad@simplot.com>
Subject: [EXTERNAL] RE: Proposed Agreement to Rent Water No.

[Warning: External Email]
Sure thing which contract number?

From: Conrad, Vic <Vic.Conrad@simplot.com>
Sent: Friday, April 14, 2023 2:37 PM
To: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Subject: Proposed Agreement to Rent Water No.

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Cody:
Will you please describe the method(s) used to calculate the fluctuating diversion rates under the proposed contract – together with the variable monthly volumes proposed.

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MAY 18 2023

Parker, Cody

From: Conrad, Vic <Vic.Conrad@simplot.com>
Sent: Friday, April 21, 2023 4:54 PM
To: Parker, Cody
Subject: RE: [EXTERNAL] RE: Proposed Agreement to Rent Water No.

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Please return the proposed Water Bank Rental Contract 691 to me in Microsoft Word Format.

From: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Sent: Friday, April 21, 2023 4:12 PM
To: Conrad, Vic <Vic.Conrad@simplot.com>
Subject: RE: [EXTERNAL] RE: Proposed Agreement to Rent Water No.

Which is the perfect reasoning justifying a change in course.

From: Conrad, Vic <Vic.Conrad@simplot.com>
Sent: Friday, April 21, 2023 3:29 PM
To: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Subject: RE: [EXTERNAL] RE: Proposed Agreement to Rent Water No.

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If there were any injury Cody, the injured party experienced the alleged injury continuously for the last 12 consecutive years. Thank you.

From: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Sent: Friday, April 21, 2023 3:25 PM
To: Conrad, Vic <Vic.Conrad@simplot.com>
Subject: RE: [EXTERNAL] RE: Proposed Agreement to Rent Water No.

Nonsense. Our analysis this far has been based on the facts we were able to put together from the information we have. We did not pursue the initial reductions to the rentable amounts based on the benefit from natural subirrigation, like we had initially planned, as a result of our previous conversations. So, I'm not sure how you have concluded that we have a pre-determined outcome, when the outcome we reached differs from what we originally planned? That said, this is the final decision unless you submit additional information to demonstrate that injury will not occur (like I outlined in my previous email).

Cody

From: Conrad, Vic <Vic.Conrad@simplot.com>
Sent: Friday, April 21, 2023 2:13 PM
To: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Subject: RE: [EXTERNAL] RE: Proposed Agreement to Rent Water No.

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Cody,
This is very frustrating. You seem to have a pre-determined outcome and are making-up explanations to achieve your desired outcome. Drying-up 45.3 acres to supply this system is excessive.

Is this your final decision.

From: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Sent: Friday, April 21, 2023 12:55 PM
To: Conrad, Vic <Vic.Conrad@simplot.com>
Subject: RE: [EXTERNAL] RE: Proposed Agreement to Rent Water No.

I'll admit to not explaining the justification for the reduced diversion rate very well. The diversion rates shown by month are the portion of the diversion rate that is consumed according to the precipitation deficit data we used. With irrigation, we assume that the portion of the diverted water not consumed by plants is recharged back into the source. Therefore, the net effect on the streamflow from the diversion is something less than the diverted amount (diverted amount – recharge amount). I would have a hard time assuming that the same fraction of the full diversion rate is recharged back into the stream when the water is used for the dust abatement that is proposed. I would guess none of the water diverted for dust abatement recharges back to the source.

Additionally, as I discussed with you before, the leased place of use appears to benefit from some substantial natural subirrigation due to the proximity to the source. That means a large portion of the consumptive use is naturally achieved. So, if you divert the full 0.02 cfs/acre for irrigation, a much larger fraction of the diverted water recharges back to the stream than is typical in areas which do not benefit from natural subirrigation. So, using the climate data as we did without further reducing it for consideration of the natural subirrigation is already to the applicant's benefit.

To be able to give the full diversion rate as you request, I would need some sort of analysis showing that the recharges and consumptive use of the proposed dust abatement practice is comparable to the historical irrigation practice. Otherwise, it seems likely that allowing the full diversion rate has the potential to cause injury to users downstream of the place of use.

Let me know what you want to do. If you want to pursue the rental agreement as it is without further justification or analysis let me know and I can change the term of the rental to 1 year.

Thanks

Cody Parker

From: Conrad, Vic <Vic.Conrad@simplot.com>
Sent: Thursday, April 20, 2023 3:13 PM
To: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Subject: RE: [EXTERNAL] RE: Proposed Agreement to Rent Water No.

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Cody,

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Among your explanations, the proposed monthly variable diversion rates for 2023 Rental Agreement No. 691 are the most problematic. The water right was decreed for 0.02 cfs/acre and was diverted at this rate from Sage Creek continuously during the irrigation season up to 2010. Simplot began leasing and renting this same portion of 24-4017 in 2010. The lease/rental of the same 45.3 acres of water with an authorized diversion rate of 0.9 cfs has been continuous for the same purpose since 2010 until the current term of the lease/rental expired on December 31, 2022. 0.9 cfs correlates with a diversion rate of 0.02 cfs/acre for 45.3 acres.

If we accept the explanation provided for supporting your volume limit, a diversion rate at 0.02 cfs/are should apply until the volume limit is reached. For instance, if we use April provided below as an example, 0.1 acre feet = 32,585 gallons. If Simplot chooses to divert at the decreed diversion rate (0.90 cfs or 403.95 gallons per minute); Simplot could divert for 80.69 minutes before reaching your theoretical volume limit for April without injury to any other water right holder. If you perceive some injury caused by diverting at the decreed rate up to your theoretical monthly volume limit, please explain the injury.

At a minimum, please reconsider the diversion rate proposed in rental agreement 691. If Simplot chooses to divert at a rate of 0.9 cfs it should be allowed to do so up to the theoretical volume limit without injury. I do not know the factual circumstances of the Suez (now Violia) situation. Consequently, I cannot comment on your former treatment of their circumstances.

Also, please reduce the term to a one-year rental term. We will pursue alternatives for our dust abatement needs and resume irrigating with the full decreed rate of diversion and volumes should similar conditions be imposed for the 2023 rental agreement.

From: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Sent: Wednesday, April 19, 2023 2:15 PM
To: Conrad, Vic <Vic.Conrad@simplot.com>
Subject: RE: [EXTERNAL] RE: Proposed Agreement to Rent Water No.

Ok sorry for the delay. I re-ran the analysis myself and came up with just slightly different numbers so I wanted to follow up with Phill and Skyler who actually processed the rental. For reference, the numbers I produced for the table are:

Beneficial Use	Month	Diversion Rate	Diversion Volume
INDUSTRIAL	April	0.01	0.1
INDUSTRIAL	May	0.09	5.3
INDUSTRIAL	June	0.32	18.8
INDUSTRIAL	July	0.36	22.0
INDUSTRIAL	August	0.33	20.0
INDUSTRIAL	September	0.18	10.9
INDUSTRIAL	October	0.03	1.7
Combined Rental Total		**N/A**	**78.8**

The rental application proposes a change in nature, which requires us to limit the amount that can be used for industrial purposes to the consumptive use of the historical irrigation practice. This ensures that neither enlargement nor injury occurs. Because the source is surface water, and the surface water supply is typically variable throughout the season, we must ensure that the resulting use does not cause the owner to use more water during a particular month during the season than they have historically. Put another way, increasing diversion of water during the late summer (for instance) when water is short could potentially injure other surface water users. Therefore, we restrict the industrial volume to the historical irrigation consumptive use associated with each month during the irrigation season. The monthly rates you see are the rates required if diverted 24-7 that would produce the monthly volume. As far as I know, this is a relatively

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IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

October 26, 2022

J R SIMPLOT
PO BOX 27
BOISE ID 83707

RE: APPLICATION(S) 2476 TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of your application(s) to rent water from the Water Supply Bank (Bank).

The Department will accept applications proposed for the next calendar season on November 1 of the prior year. Your application is proposing water use during the 2023 season; therefore, the Department will begin processing your application after November 1, 2022.

Applications received after November 1, 2022 will be processed in the order received at the Department. The likelihood of successfully acquiring a rental through the Bank is greatly improved by applying early during the processing period before the proposed season of use begins.

Note that filing a rental application does not authorize diversion and use of water. It is unlawful to use water without a valid water right or an approved Bank rental agreement. **You are not authorized to divert any water for the purposes described in your application until you have paid the rental fee and you and the Department have both signed and executed a rental agreement.**

You can check the status of your rental application by reviewing the Department's Water Supply Bank Processing spreadsheet, accessible from the Bank's website at:

https://idwr.idaho.gov/iwrb/programs/water-supply-bank/resources/

Sincerely,

Mackenzie Kienholz
Water Supply Bank Specialist

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MAY 18 2023