

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84020**

This is to certify that: J R SIMPLOT CO
C/O JAMES B ALDERMAN
PO BOX 27
BOISE, ID 83707-0027

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-22210	WR/DECREED	3/1/1949	0.500 cfs	N/A	N/A	25.0	BARDSLY GULCH DRAIN
63-2343	WR/DECREED	6/9/1920	2.080 cfs	N/A	N/A	104.0	DIXIE DRAIN
63-3178A	WR/DECREED	5/9/1960	3.480 cfs	N/A	N/A	174.0	DIXIE DRAIN
63-32570	WR/DECREED	3/15/1949	9.640 cfs	N/A	N/A	482.0	DIXIE SLOUGH
63-32571	WR/DECREED	3/15/1957	2.480 cfs	N/A	N/A	124.0	DIXIE SLOUGH
63-34911	WR/DECREED	6/10/1916	1.420 cfs	N/A	N/A	71.0	BARDSLEY GULCH DRAIN

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-22210	NO	YES	NO	YES	NO	NO
63-2343	NO	YES	YES	YES	NO	NO
63-3178A	NO	NO	NO	YES	NO	NO
63-32570	NO	YES	NO	YES	NO	NO
63-32571	NO	YES	NO	YES	NO	NO
63-34911	NO	YES	NO	YES	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-22210	63-22210	0.500 cfs	N/A	25.0	1010.0	N/A	N/A	N/A	N/A	N/A
63-2343	63-2343	2.080 cfs	N/A	104.0	1010.0	N/A	N/A	N/A	N/A	N/A
63-3178A	63-3178A	3.480 cfs	N/A	174.0	1010.0	N/A	N/A	N/A	N/A	N/A
63-32570	63-32570	9.640 cfs	N/A	482.0	1010.0	N/A	N/A	N/A	N/A	N/A
63-32571	63-32571	2.480 cfs	N/A	124.0	1010.0	N/A	N/A	N/A	N/A	N/A
63-34911	63-34911	1.420 cfs	N/A	71.0	1010.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		19.590 cfs	N/A	916.0	1010.0		N/A	N/A	N/A	N/A

SUPPORT DATA

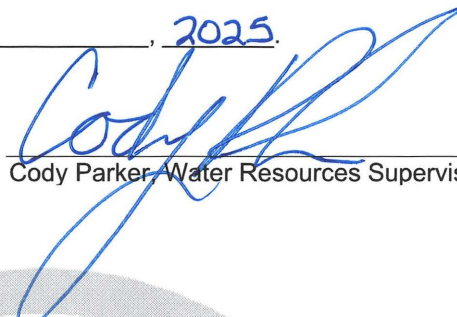
IN FILE # 63-2343Transfer No. 84020

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84020**

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 9th day of April, 2025.


Cody Parker, Water Resources Supervisor



WATER RIGHT NO. 63-2343**As Modified by Transfer No. 84020**

In accordance with the approval of Transfer No. 84020, Water Right No. 63-2343 is now described as follows:

Right Holder: SIMPLOT LIVESTOCK CO
PO BOX 27
BOISE, ID 83707

Priority Date: 6/9/1920

Source: DIXIE DRAIN

Tributary: INDIAN CREEK

BENEFICIAL USE

IRRIGATION

From

03/15

To

to 11/15

Diversion Rate

2.080 cfs

2.080 cfs

LOCATION OF POINT(S) OF DIVERSION

DIXIE DRAIN
DIXIE DRAIN

NENE
NENE

Sec 29 Twp 04N Rge 03W CANYON County
Sec 29 Twp 04N Rge 03W CANYON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	19									40.0	38.0	38.0	40.0	1.0	5.0	36.0	36.0	234.0
04N	03W	20											40	40	36.0	36.0	40	40	232.0
04N	03W	28					40.0	40.0	19.0	18.0									117.0
04N	03W	29	40.0	40.0	30.0	19.0	40.0	40.0	21.0	37.0									267.0
04N	03W	30	40.0	40.0															80.0
04N	04W	24													40.0	40.0			80.0

Right Acre Limit: 104.0

POU Total Acres: 1010.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 104 acres within the authorized place of use in a single irrigation season.
2. Rights 63-2343, 63-3178A, 63-22210, 63-32570, 63-32571, and 63-34911 are limited to the irrigation of a specific 916.0 acres within the 1010.0 acre place of use authorized by this right in a single irrigation season. The specific 916.0 acres to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a representative electronic shape file or by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 916.0 acres to be irrigated within the 1010.0 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.

Transfer No. 84020

WATER RIGHT NO. 63-2343
As Modified by Transfer No. 84020

CONDITIONS OF APPROVAL

3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
4. 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).
5. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
6. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than 2/6/2009.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-3178A**As Modified by Transfer No. 84020**

In accordance with the approval of Transfer No. 84020, Water Right No. 63-3178A is now described as follows:

Right Holder: SIMPLOT LIVESTOCK CO
PO BOX 27
BOISE, ID 83707

Priority Date: 5/9/1960

Source: DIXIE DRAIN

Tributary: BOISE RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 11/15

Diversion Rate

3.480 cfs

3.480 cfs

LOCATION OF POINT(S) OF DIVERSION

DIXIE DRAIN

NWNE

Sec 28 Twp 04N Rge 03W CANYON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	19									40.0	38.0	38.0	40.0	1.0	5.0	36.0	36.0	234.0
04N	03W	20											40.0	40.0	36.0	36.0	40.0	40.0	232.0
04N	03W	28					40.0	40.0	19.0	18.0									117.0
04N	03W	29	40.0	40.0	30.0	19.0	40.0	40.0	21.0	37.0									267.0
04N	03W	30	40.0	40.0															80.0
04N	04W	24													40.0	40.0			80.0

Right Acre Limit: 174.0

POU Total Acres: 1010.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 174.0 acres within the authorized place of use in a single irrigation season.
2. Rights 63-2343, 63-3178A, 63-22210, 63-32570, 63-32571, and 63-34911 are limited to the irrigation of a specific 916.0 acres within the 1010.0 acre place of use authorized by this right in a single irrigation season. The specific 916.0 acres to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a representative electronic shape file or by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 916.0 acres to be irrigated within the 1010.0 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.

Transfer No. 84020

WATER RIGHT NO. 63-3178A
As Modified by Transfer No. 84020

CONDITIONS OF APPROVAL

3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
4. 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).
5. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
6. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 and is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than 2/6/2009.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-22210
As Modified by Transfer No. 84020

In accordance with the approval of Transfer No. 84020, Water Right No. 63-22210 is now described as follows:

Right Holder: SIMPLOT LIVESTOCK CO
 PO BOX 27
 BOISE, ID 83707

Priority Date: 3/1/1949

Source: BARDSLEY GULCH DRAIN **Tributary:** SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/01	to 11/15	0.500 cfs
			0.500 cfs

LOCATION OF POINT(S) OF DIVERSION

BARDSLEY GULCH DRAIN	NENE	Sec 29 Twp 04N Rge 03W CANYON County	(R)
BARDSLEY GULCH DRAIN	NENE	Sec 29 Twp 04N Rge 03W CANYON County	(R)
BARDSLEY GULCH DRAIN	SWNE	Sec 29 Twp 04N Rge 03W CANYON County	(I)
BARDSLEY GULCH DRAIN	SESE	Sec 29 Twp 04N Rge 03W CANYON County	

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	19									40.0	38.0	38.0	40.0	1.0	5.0	36.0	36.0	234.0
04N	03W	20											40.0	40.0	36.0	36.0	40.0	40.0	232.0
04N	03W	28					40.0	40.0	19.0	18.0									117.0
04N	03W	29	40.0	40.0	30.0	19.0	40.0	40.0	21.0	37.0									267.0
04N	03W	30	40.0	40.0															80.0
04N	04W	24													40.0	40.0			80.0

Right Acre Limit: 25.0

POU Total Acres: 1010.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 25 acres within the authorized place of use in a single irrigation season.
2. Rights 63-22210 and 63-32570 when combined shall not exceed the irrigation of 482 acres.

WATER RIGHT NO. 63-22210
As Modified by Transfer No. 84020

CONDITIONS OF APPROVAL

3. Rights 63-2343, 63-3178A, 63-22210, 63-32570, 63-32571, and 63-34911 are limited to the irrigation of a specific 916.0 acres within the 1010.0 acre place of use authorized by this right in a single irrigation season. The specific 916.0 acres to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a representative electronic shape file or by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 916.0 acres to be irrigated within the 1010.0 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
5. 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).
6. Transfer No. 84020 authorizes the diversion of this right from Dixie Drain as an exchange of Bardsley Gulch Drain water for Dixie Drain water.
7. Diversion water from the Dixie Drain is limited to those times water is available for diversion under this right and priority from the Bardsley Gulch Drain.
8. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the department for measuring the flow in Bardsley Gulch Drain at the original point of diversion and at the point of diversion from the Dixie Drain.
9. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-32570
As Modified by Transfer No. 84020

In accordance with the approval of Transfer No. 84020, Water Right No. 63-32570 is now described as follows:

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

Priority Date: 3/15/1949

Source: DIXIE SLOUGH

Tributary: WEST END DRAIN

BENEFICIAL USE
 IRRIGATION

From
 03/01

To
 to 11/15

Diversion Rate
 9.640 cfs
 9.640 cfs

LOCATION OF POINT(S) OF DIVERSION

DIXIE SLOUGH
 DIXIE SLOUGH

NENE
 NENE

Sec 29 Twp 04N Rge 03W CANYON County
 Sec 29 Twp 04N Rge 03W CANYON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	19									40.0	38.0	38.0	40.0	1.0	5.0	36.0	36.0	234.0
												L 3	L 4						
04N	03W	20											40.0	40.0	36.0	36.0	40.0	40.0	232.0
04N	03W	28					40.0	40.0	19.0	18.0									117.0
04N	03W	29	40.0	40.0	30.0	19.0	40.0	40.0	21.0	37.0									267.0
04N	03W	30	40.0	40.0															80.0
04N	04W	24													40.0	40.0			80.0

Right Acre Limit: 482.0

POU Total Acres: 1010.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 482 acres within the authorized place of use in a single irrigation season.
2. Rights 63-22210 and 63-32570 when combined shall not exceed the irrigation of 482 acres.
3. Rights 63-32571 and 63-32570 when combined shall not exceed a total diversion rate of 10.95 cfs.

Transfer No. 84020

WATER RIGHT NO. 63-32570
As Modified by Transfer No. 84020

CONDITIONS OF APPROVAL

4. Rights 63-2343, 63-3178A, 63-22210, 63-32570, 63-32571, and 63-34911 are limited to the irrigation of a specific 916.0 acres within the 1010.0 acre place of use authorized by this right in a single irrigation season. The specific 916.0 acres to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a representative electronic shape file or by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 916.0 acres to be irrigated within the 1010.0 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
6. 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).
7. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-32571
As Modified by Transfer No. 84020

In accordance with the approval of Transfer No. 84020, Water Right No. 63-32571 is now described as follows:

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

Priority Date: 3/15/1957

Source: DIXIE SLOUGH

Tributary: WEST END DRAIN

BENEFICIAL USE

IRRIGATION

From

03/01

To

to 11/15

Diversion Rate

2.480 cfs

2.480 cfs

LOCATION OF POINT(S) OF DIVERSION

DIXIE SLOUGH

NENE

Sec 29 Twp 04N Rge 03W CANYON County

DIXIE SLOUGH

NENE

Sec 29 Twp 04N Rge 03W CANYON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	19									40.0	38.0	38.0	40.0	1.0	5.0	36.0	36.0	234.0
04N	03W	20											40.0	40.0	36.0	36.0	40.0	40.0	232.0
04N	03W	28					40.0	40.0	19.0	18.0									117.0
04N	03W	29	40.0	40.0	30.0	19.0	40.0	40.0	21.0	37.0									267.0
04N	03W	30	40.0	40.0															80.0
04N	04W	24													40.0	40.0			80.0

Right Acre Limit: 124.0

POU Total Acres: 1010.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 124 acres within the authorized place of use in a single irrigation season.
2. Rights 63-32751 and 63-34911 when combined shall not exceed the irrigation of 156 acres.
3. Rights 63-32570 and 63-32571 when combined shall not exceed a total diversion rate of 10.95 cfs.

WATER RIGHT NO. 63-32571
As Modified by Transfer No. 84020

CONDITIONS OF APPROVAL

4. Rights 63-2343, 63-3178A, 63-22210, 63-32570, 63-32571, and 63-34911 are limited to the irrigation of a specific 916.0 acres within the 1010.0 acre place of use authorized by this right in a single irrigation season. The specific 916.0 acres to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a representative electronic shape file or by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 916.0 acres to be irrigated within the 1010.0 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
6. 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).
7. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-34911
As Modified by Transfer No. 84020

In accordance with the approval of Transfer No. 84020, Water Right No. 63-34911 is now described as follows:

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

Priority Date: 6/10/1916

Source: BARDSLEY GULCH DRAIN **Tributary:** SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	3/15	to 11/15	1.420 cfs 1.420 cfs

LOCATION OF POINT(S) OF DIVERSION

BARDSLEY GULCH DRAIN	NENE	Sec 29 Twp 04N Rge 03W CANYON County	(R)
BARDSLEY GULCH DRAIN	NENE	Sec 29 Twp 04N Rge 03W CANYON County	(R)
BARDSLEY GULCH DRAIN	SWNE	Sec 29 Twp 04N Rge 03W CANYON County	(I)
BARDSLEY GULCH DRAIN	SESE	Sec 29 Twp 04N Rge 03W CANYON County	

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	19									40.0	38.0	38.0	40.0	1.0	5.0	36.0	36.0	234.0
04N	03W	20											40.0	40.0	36.0	36.0	40.0	40.0	232.0
04N	03W	28					40.0	40.0	19.0	18.0									117.0
04N	03W	29	40.0	40.0	30.0	19.0	40.0	40.0	21.0	37.0									267.0
04N	03W	30	40.0	40.0															80.0
04N	04W	24													40.0	40.0			80.0

Right Acre Limit: 71.0
POU Total Acres: 1010.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 71 acres within the authorized place of use in a single irrigation season.
2. Rights 63-32571 and 63-34911 when combined shall not exceed the irrigation of 156 acres.

WATER RIGHT NO. 63-34911
As Modified by Transfer No. 84020

CONDITIONS OF APPROVAL

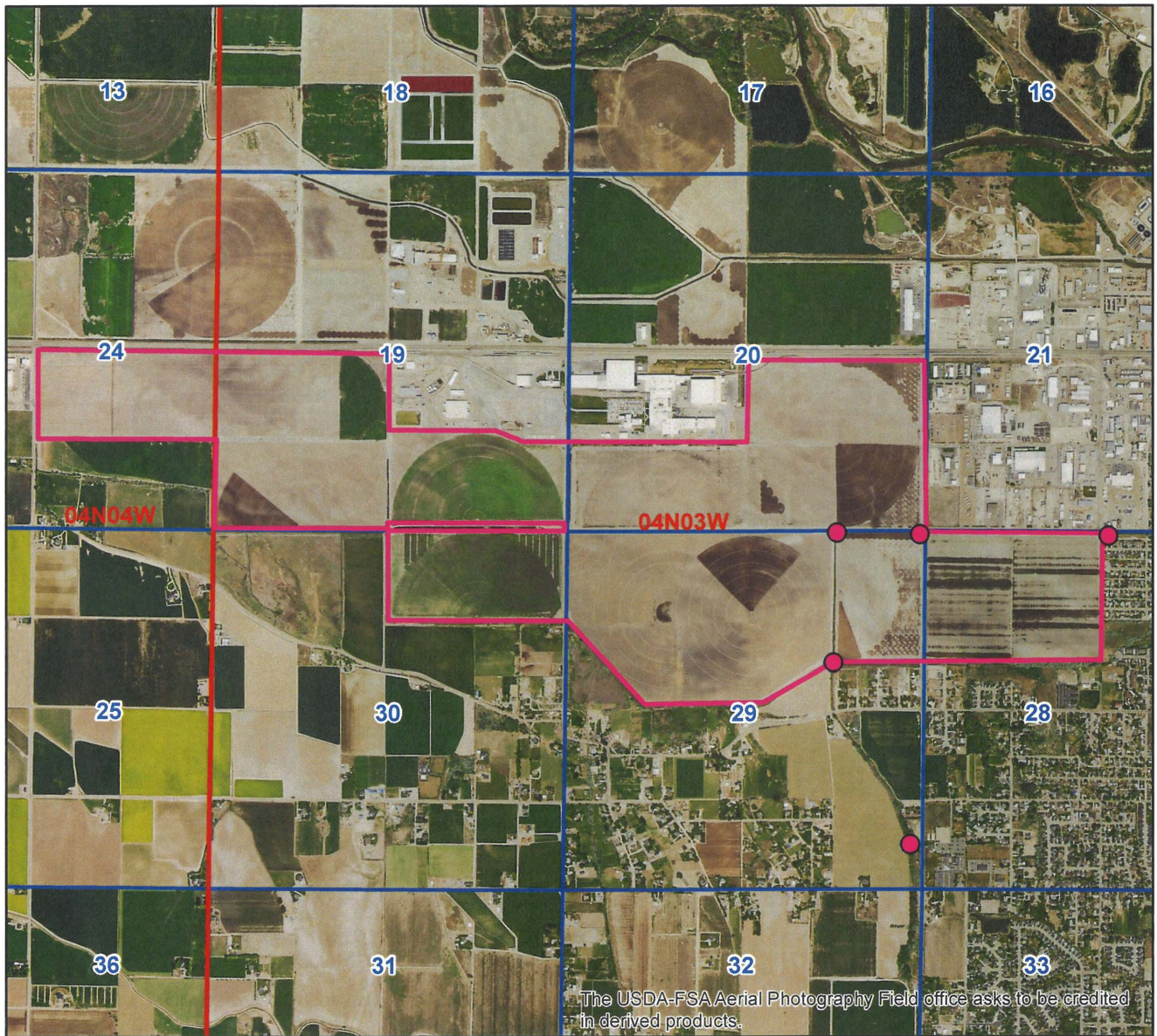
3. Rights 63-2343, 63-3178A, 63-22210, 63-32570, 63-32571, and 63-34911 are limited to the irrigation of a specific 916.0 acres within the 1010.0 acre place of use authorized by this right in a single irrigation season. The specific 916.0 acres to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a representative electronic shape file or by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 916.0 acres to be irrigated within the 1010.0 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
5. 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).
6. Transfer No. 84020 authorizes the diversion of this right from Dixie Drain as an exchange of Bardsley Gulch Drain water for Dixie Drain water.
7. Diversion of water from the Dixie Drain is limited to those times water is available for diversion under this right and priority from the Bardsley Gulch Drain.
8. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the department for measuring the flow in Bardsley Gulch Drain at the original point of diversion and at the point of diversion from the Dixie Drain.
9. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
10. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than 2/6/2009.
11. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

State of Idaho
Department of Water Resources

Attachment to Transfer No. 84020

Water Right(s): 63-22210, 63-2343, 63-3178A,
63-32570, 63-32571, 63-34911.

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



0 1,650 3,300 6,600 Feet

- Transfer POD
- SimplotPOU
- Township/Range
- Sections





April 11, 2025

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

Re: Transfer No: 84020 - Water Right Nos: 36-17264, 63-2343, 63-3178A, 63-22210,
63-32570, 63-32571, 63-34911

Transfer Approval Notice

Dear Water Right Holder and other interested parties:

The Department of Water Resources has issued the enclosed approved Transfer of Water Rights. Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Rights is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 334-2190.

Sincerely,

A handwritten signature in blue ink that reads "Susan E. Hobson". The signature is written in a cursive style with a large 'S' and a clear 'E'.

Susy Hobson
Technical Records Specialist

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2025 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the persons listed below:

Re: Transfer No: 84020 - Water Right Nos.: 36-17264, 63-2343, 63-3178A , 63-22210, 63-32570, 63-32571, 63-34911

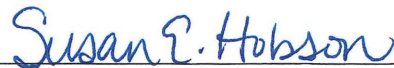
J R SIMPLOT CO
C/O JAMES B ALDERMAN
PO BOX 27
BOISE ID 83707-0027

PIONEER IRRIGATION DISTRICT
C/O ANDREW J WALDERA
PO BOX 7985
BOISE ID 83707

HDR INC
ATTN LORI GRAVES
412 E PARKCENTER BLVD STE 100
BOISE, ID 83706-6659

SIMPLOT LIVESTOCK CO
PO BOX 27
BOISE, ID 83707

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



Susy Hobson
Technical Records Specialist

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

Miller, Nick

From: Miller, Nick
Sent: Tuesday, March 02, 2021 9:53 AM
To: 'Albert Barker'
Cc: Andy Waldera; 'Mark Zirschky (mark@pioneerirrigation.com)'; Conrad, Vic; Moon, Rebecca; Smith, Tyler
Subject: RE: Pioneer Irrigation District Conditional Withdrawal of Protest--Simplot Transfer Application No. 84020

You are not holding anything up. I asked Tyler to go through the application and identify what amendments are needed and begin drafting the memo we contemplated at the last conference, but I haven't had a chance to review any of that. I'll try to get back to you all later this week.

From: Albert Barker [mailto:apb@idahowaters.com]
Sent: Tuesday, March 02, 2021 9:46 AM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Cc: Andy Waldera <andy@sawtoothlaw.com>; 'Mark Zirschky (mark@pioneerirrigation.com)' <mark@pioneerirrigation.com>; Conrad, Vic <Vic.Conrad@simplot.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>
Subject: RE: Pioneer Irrigation District Conditional Withdrawal of Protest--Simplot Transfer Application No. 84020

Nick-

Just checking in to see if you need anything more from Simplot to decide if an amendment is necessary. Or if anything else is needed for the transfer. No urgency on our part, and we know you have a lot going on. Just want to make sure that we are not holding anything up.

Albert P. Barker
Barker Rosholt & Simpson LLP
1010 W Jefferson, Suite 102
Boise, Idaho 83702
(208) 336-0700

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From: Albert Barker
Sent: Monday, February 1, 2021 10:09 AM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Cc: Andy Waldera <andy@sawtoothlaw.com>; 'Mark Zirschky (mark@pioneerirrigation.com)' <mark@pioneerirrigation.com>; Conrad, Vic <Vic.Conrad@simplot.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>
Subject: FW: Pioneer Irrigation District Conditional Withdrawal of Protest--Simplot Transfer Application No. 84020

Nick-

Simplot has reviewed Andy's email. Simplot agrees that IDWR should issue the rights post-transfer based on the draft the rights post-transfer circulated on New Year's Eve (copy attached) as noted in our prior correspondence. Simplot is prepared to stipulate to those rights as described on the attachment.

Please let us know if you need an amendment to the application to accomplish this result.

Albert P. Barker
Barker Rosholt & Simpson LLP
1010 W Jefferson, Suite 102
Boise, Idaho 83702
(208) 336-0700

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From: Andy Waldera <andy@sawtoothlaw.com>
Sent: Friday, January 29, 2021 9:27 AM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Cc: Albert Barker <apb@idahowaters.com>; Debby Long <debby@sawtoothlaw.com>; 'Mark Zirschky (mark@pioneerirrigation.com)' <mark@pioneerirrigation.com>; Conrad, Vic <Vic.Conrad@simplot.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>
Subject: Pioneer Irrigation District Conditional Withdrawal of Protest--Simplot Transfer Application No. 84020

Good morning, Nick.

As discussed during our last status conference on January 20, Pioneer Irrigation District ("Pioneer") conditionally withdraws its protest in this matter provided that the ultimate certificate of transfer (final approval) materially complies with the attached proposals you mocked up and provided the group on December 31, 2020 (copy attached).

We understand that you are preparing a memo to the file regarding the various issues and discussions between the parties, chief amongst them the location and configuration of the Dixie Drain. The attached proposal, consistent with the SRBA Partial Decrees concerning source identification on the water rights at issue in the transfer, leaves that issue (Dixie Drain location and configuration) for a different day and different proceeding, if necessary, between Pioneer, Simplot, and (maybe) the United States Bureau of Reclamation.

Pioneer makes clear that this conditional withdrawal of protest does not, nor is it intended to, resolve the parties' dispute over the location and configuration of the Dixie Drain. And neither Pioneer, nor Simplot (as we've discussed), waive any rights they may have in the use, operation, or maintenance of the ditch facilities at issue in this transfer proceeding. Those rights and issues will be addressed in a separate proceeding or manner outside of this water right transfer proceeding.

If you need something different or more formal from me for conditional protest withdrawal purposes, please let me know and I will get that additional documentation to you. If you have any questions, please feel free to contact me at 208-629-7447.

Regards,
Andy

Andrew J. Waldera
SAWTOOTH LAW OFFICES, PLLC

andy@sawtoothlaw.com

www.sawtoothlaw.com

Telephone: (208) 629-7447 ext. 216

Facsimile: (208) 629-7559

P.O. Box 7985, Boise, Idaho, 83707



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Miller, Nick

From: Conrad, Vic <Vic.Conrad@simplot.com>
Sent: Thursday, January 28, 2021 4:14 PM
To: Miller, Nick; Barker, Albert (IWRB Member)
Cc: Moon, Rebecca; Smith, Tyler
Subject: RE: [EXTERNAL] RE: Simplot Transfer 84020

Nick:
Just circling back to see if you received anything yet from Andy.

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Sent: Tuesday, January 19, 2021 4:55 PM
To: Barker, Albert (IWRB Member) <apb@idahowaters.com>
Cc: Andy Waldera <andy@sawtoothlaw.com>; Conrad, Vic <Vic.Conrad@simplot.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>; Mark Zirschky <mark@pioneerirrigation.com>; Smith, Tyler <Tyler.Smith@idwr.idaho.gov>
Subject: Re: [EXTERNAL] RE: Simplot Transfer 84020

Thanks to both of you for your perspective. I will plan to hold the call as planned tomorrow.

Nick.

On Jan 19, 2021, at 4:29 PM, Albert Barker <apb@idahowaters.com> wrote:

Andy-

Simplot has discussed your email from this afternoon. Simplot agrees that the draft of the rights post-transfer that Nick Miller circulated on New Years Eve (copy attached) is the appropriate result based on what Nick discovered about the Department's ability to describe the source of the water rights. Simplot is prepared to stipulate to those rights as described on the attachment.

Since there are no changes to the description of the sources in the water rights and since the Department states that it cannot make changes to the sources in a transfer proceeding, there is no need for a separate agreement either reserving or waiving any rights regarding the name of the source. Likewise, since the Department has no authority to determine the easement rights of the parties, there is no need for a separate agreement either reserving or waiving the parties rights or lack thereof to any easement. We proposed such an agreement when we suggested clearing up the name of the waterway to make it consistent across all the water rights, so that no one was waiving any rights with respect to the changes in the source name. Since there are no changes to the source and no new names, such an agreement isn't necessary.

Simplot prefers to have the call in the morning to see where things stand with respect to the proposed new water rights as described in Nick's New Years Eve email, post-transfer.

Albert P. Barker
Barker Rosholt & Simpson LLP
1010 W Jefferson, Suite 102
Boise, Idaho 83702
(208) 336-0700

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From: Andy Waldera <andy@sawtoothlaw.com>

Sent: Tuesday, January 19, 2021 2:49 PM

To: Conrad, Vic <Vic.Conrad@simplot.com>; Miller, Nick <Nick.Miller@idwr.idaho.gov>; Moon, Rebecca <Rebecca.Moon@simplot.com>; Mark Zirschky <mark@pioneerirrigation.com>; Albert Barker <apb@idahowaters.com>; Smith, Tyler <Tyler.Smith@idwr.idaho.gov>

Subject: RE: [EXTERNAL] RE: Simplot Transfer 84020

Good afternoon, All.

Following up on Nick and Vic's latest emails embedded below (which were waiting on me and Pioneer to discuss internally and with BOR), the proposed plan/path forward of leaving the various sources and tributaries "as-is" works. Thus, it looks like:

1. Pump POD at Kit and Laurel continues to identify source as "Dixie Drain" under 63-3178A.
2. Pump POD at Farmway will identify two sources based on the prior decrees; "Dixie Drain" under 63-2343, and "Dixie Slough" under 63-32570 and 63-32571.
3. "Control Structure" POD (where the ditch heads south to West End Drain) will identify two sources based on the prior decrees; "Dixie Drain" under 63-2343, and "Dixie Slough" under 63-32570 and 63-32571.
4. Final Certificate of Transfer will contain condition of approval remark/reference to a separate agreement yet to be drafted that will be kept in the IDWR transfer file, which separate agreement will serve as the parties' reciprocal reservation of rights regarding the easement, if any, in the "L"-shaped ditch facility lying between Kit and the West End Drain.

Assuming this is the end result everyone expects (please respond otherwise if this outline is incorrect), do we forego tomorrow morning's scheduled status conference in favor of putting together the draft stipulation/agreement identified in No. 4? Happy to continue on with the status conference if that is what folks want, but happy to avoid if folks are more interested in dropping it instead.

Thanks,
Andy

Andrew J. Waldera

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Facsimile: (208) 629-7559

P.O. Box 7985, Boise, Idaho, 83707

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From: Conrad, Vic <Vic.Conrad@simplot.com>

Sent: Thursday, January 7, 2021 8:01 AM

To: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Moon, Rebecca <Rebecca.Moon@simplot.com>; Mark Zirschky <mark@pioneerirrigation.com>; Andy Waldera <andy@sawtoothlaw.com>; Barker, Albert (IWRB Member) <apb@idahowaters.com>; Smith, Tyler <Tyler.Smith@idwr.idaho.gov>

Subject: RE: [EXTERNAL] RE: Simplot Transfer 84020

Thank you Nick. We'll see how Andy gets along with the Pioneer Board and the Bureau. It looks like we have a good path forward with keeping the source/tributary "as-is" for 63-2343.

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Sent: Wednesday, January 6, 2021 7:54 PM

To: Conrad, Vic <Vic.Conrad@simplot.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>; Mark Zirschky <mark@pioneerirrigation.com>; Andy Waldera <andy@sawtoothlaw.com>; Barker, Albert (IWRB Member) <apb@idahowaters.com>; Smith, Tyler <Tyler.Smith@idwr.idaho.gov>

Subject: RE: [EXTERNAL] RE: Simplot Transfer 84020

Ok. Let's go for a phone call at 9:30 am on the 20th.

We'll use the same phone numbers as in the past:

Dial 1-720-279-0026

Participant code 126664#

Also, I had a chance to discuss the "source change" question with others and the conclusion is that the Department lacks the specific authority to change the source from what was decreed. While we can, in some cases, update the nomenclature if it is clear the source isn't changing and the nomenclature change will not impact how the right is administered. In this case, the proposed name change does impact the right relative to other rights by changing the tributary to a different stream than what was decreed. In the event of administration (either a call that impacts Simplot by a senior user on Indian Creek, or a junior user on West End Drain asserting Simplot shouldn't divert) the watermaster and department can utilize discretion and apply the facts to administer the right and there will be an opportunity for the parties to demonstrate that, for example, the call by Indian Creek is futile. As I understand it, in short – the department does not have the authority to change the source on the face of the right, but it has the ability to interpret the face of the right as part of its duty to administer the right.

Nick.

From: Conrad, Vic [<mailto:Vic.Conrad@simplot.com>]

Sent: Tuesday, January 05, 2021 3:39 PM

To: Moon, Rebecca <Rebecca.Moon@simplot.com>; Mark Zirschky <mark@pioneerirrigation.com>; Andy Waldera <andy@sawtoothlaw.com>; Barker, Albert (IWRB Member) <apb@idahowaters.com>; Miller, Nick <Nick.Miller@idwr.idaho.gov>; Smith, Tyler <Tyler.Smith@idwr.idaho.gov>

Subject: RE: [EXTERNAL] RE: Simplot Transfer 84020

Anytime the morning of the 20th works fine for me too. Thank you Nick.

From: Moon, Rebecca <Rebecca.Moon@simplot.com>

Sent: Tuesday, January 5, 2021 3:28 PM

To: Mark Zirschky <mark@pioneerirrigation.com>; Andy Waldera <andy@sawtoothlaw.com>; Albert Barker <apb@idahowaters.com>; Miller, Nick <Nick.Miller@idwr.idaho.gov>; Smith, Tyler <Tyler.Smith@idwr.idaho.gov>; Conrad, Vic <Vic.Conrad@simplot.com>

Subject: RE: [EXTERNAL] RE: Simplot Transfer 84020

That works for me, as well.

Rebecca

From: Mark Zirschky <mark@pioneerirrigation.com>

Sent: Tuesday, January 5, 2021 3:27 PM

To: Andy Waldera <andy@sawtoothlaw.com>; Albert Barker <apb@idahowaters.com>; Miller, Nick <Nick.Miller@idwr.idaho.gov>; Smith, Tyler <Tyler.Smith@idwr.idaho.gov>; Conrad, Vic <Vic.Conrad@simplot.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>

Subject: [EXTERNAL] RE: Simplot Transfer 84020

[Warning: External Email]

Likewise, I am available the morning of the 20th.

Mark Zirschky - Superintendent

Pioneer Irrigation District

208-459-3617

208-250-8481

www.pioneerirrigation.com

From: Andy Waldera <andy@sawtoothlaw.com>

Sent: Tuesday, January 5, 2021 3:25 PM

To: Albert Barker <apb@idahowaters.com>; Miller, Nick <Nick.Miller@idwr.idaho.gov>; Smith, Tyler <Tyler.Smith@idwr.idaho.gov>; Conrad, Vic <Vic.Conrad@simplot.com>; Mark Zirschky <mark@pioneerirrigation.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>

Subject: RE: Simplot Transfer 84020

As I mentioned, I am available all day the 20th (in this case any time during the morning to accommodate the Water Board meeting schedule).

Thanks,

Andy

Andrew J. Waldera

SAWTOOTH LAW OFFICES, PLLC

andy@sawtoothlaw.com

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Facsimile: (208) 629-7559

P.O. Box 7985, Boise, Idaho, 83707

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From: Albert Barker <apb@idahowaters.com>

Sent: Tuesday, January 5, 2021 3:20 PM

To: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Smith, Tyler <Tyler.Smith@idwr.idaho.gov>; Andy Waldera <andy@sawtoothlaw.com>; Conrad, Vic <Vic.Conrad@simplot.com>; Mark Zirschky (mark@pioneerirrigation.com) <mark@pioneerirrigation.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>

Subject: RE: Simplot Transfer 84020

Tentative start times for the Water Board meetings are 1 pm on the 20th and 8 am on the 21st.

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Sent: Thursday, December 31, 2020 7:59 PM

To: Smith, Tyler <Tyler.Smith@idwr.idaho.gov>; Andy Waldera <andy@sawtoothlaw.com> <andy@sawtoothlaw.com>; Albert Barker <apb@idahowaters.com>; Conrad, Vic <Vic.Conrad@simplot.com>; Mark Zirschky (mark@pioneerirrigation.com) <mark@pioneerirrigation.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>

Subject: Simplot Transfer 84020

Hello,

At our last phone conference, I committed to sending you all a mockup of what I think we landed on as far as what the rights would look like after the transfer. I have attached a PDF with marked up proof reports and a map showing the locations described on the marked up proof report. Let me know if you have any questions prior to our next zoom on Tuesday.

Nick.

<simplot.pdf>

Miller, Nick

From: Andy Waldera <andy@sawtoothlaw.com>
Sent: Tuesday, January 05, 2021 12:59 PM
To: Barker, Albert (IWRB Member); Miller, Nick; Smith, Tyler; Conrad, Vic; Mark Zirschky (mark@pioneerirrigation.com); Moon, Rebecca; Debby Long
Subject: RE: Simplot Transfer 84020

Good afternoon, All.

Thank you for the email, Al. It helps to advance the discussion for this afternoon. A few comments:

- (a) Simplot proposals 1 and 2 below are consistent with Pioneer's understanding of the final resolution of those water rights post-transfer.
- (b) Proposal No. 3 (Bardsley Gulch Drain exchange matter) is not a Pioneer issue. Pioneer understands and supports the desirability of Simplot's moved POD from Bardsley to Dixie Slough/Drain and leaves the exchange issue to Simplot and IDWR to work out and administer.
- (c) Proposal No. 4 is problematic or, at least, potentially problematic. I am not saying that the proposal is a non-starter as of this writing because Mark and I would like to discuss the matter with the Pioneer Board later this week (January 7) and the BOR as soon thereafter as possible. At minimum, there would need be (as Simplot proposes) a side agreement worked out between Pioneer and Simplot and kept in IDWR's files regarding the parties' respective disagreements over the Dixie Drain/Dixie Slough nomenclature and reserving the parties' respective rights to address ownership, easement, access, O&M issues etc. separately outside of the water right transfer process. But, simply white-washing the historical record concerning the application for, development, licensing, POD transfer, and ultimate SRBA partial decree of water right 63-2343 implicates arguments over the "reserved" issues going forward (unless the separate agreement between the parties makes abundantly clear that the conversion of 2343 source to "Dixie Slough" is nothing more than a water right transfer proceeding accommodation that in no way waives or concedes the "reserved" issues/arguments).

Mark and I need more time to address this with the Pioneer Board and the BOR for a few reasons:

--As noted above, facility identification/naming conventions necessarily implicates (at least somewhat) the parties' respective contentions over drainage, use, and O&M rights and obligations. And, Pioneer drainage through the system to the West End Drain and rights to maintain/dip the facility(ies) when necessary without interference from others is not just about "drainage." The Dixie Drain system has numerous other tributary drains discharging to it as well as a variety of delivery facility operational spills. Consequently, potentially lost access, use, and maintenance rights downstream in the system can/will impact water deliveries upstream (particularly in/from Pioneer's Lowline Canal and related laterals). This is more than a localized issue west of Kit Avenue.

--Mark and myself recall being told by Simplot very early on in this matter that in relation to its (Pioneer's) protest item nos. 2 and 3 (wastewater remark consistency and Dixie Slough nomenclature, respectively), the SRBA Partial Decrees for the various water rights govern. Essentially, Pioneer had an opportunity to address any perceived mistakes or errors during the course of the SRBA and it did not do so. Well, the same is true of Simplot. The parties could go back to the SRBA under a Rule 60(b) motion seeking to reopen and "correct" the partial decrees but I don't think anyone is interested in doing that. Thus, Pioneer was willing to accept this point (the partial decrees govern) and it is supportive of a transfer outcome consistent with those partial decrees (i.e., the proposal Nick put together for our collective consideration). But, Simplot now seeks to stray from that path

and the "source" identifications it once supported to and through a final judgment. If the issue "isn't really the name," then leaving "Dixie Drain" as the licensed and later decreed source of 63-2343 shouldn't matter. If something is to be changed via transfer in 2021 it is just as simple to leave "Dixie Drain" intact and adjust "tributary to: West End Drain" to reflect the westerly flow.

--BOR was clear in its conversation with myself and Mark that facility naming does matter to the agency (at least for the time being), and that conditional withdrawal of Pioneer's protest should occur under circumstances consistent with the existing SRBA decree source identifications. Both parties (Simplot and Pioneer as contractual operating agent for BOR) are left having to take whatever bad comes with the good in relation to the SRBA judgments. We appreciate that BOR is not a named protestant in this matter, but it is naïve to think or proceed as though the BOR has no input in this matter—particularly after having mapped facilities, conducted public outreach and solicited public comment on those facilities, and completed the formal NEPA process in the context of the proposed title transfer matter all without objection from Simplot along the way. The Dixie Drain, West End Drain, and their various tributaries implicate larger drainage patterns upgradient of Pioneer within the larger Boise Project. The BOR is interested in this matter.

Regards,
Andy

Andrew J. Waldera

SAWTOOTH LAW OFFICES, PLLC

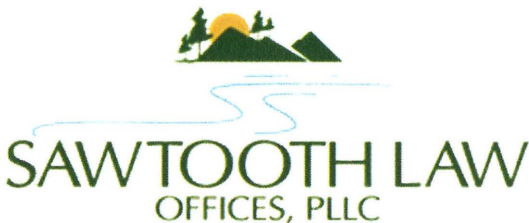
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From: Albert Barker <apb@idahowaters.com>

Sent: Monday, January 4, 2021 6:20 PM

To: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Smith, Tyler <Tyler.Smith@idwr.idaho.gov>; Andy Waldera <andy@sawtoothlaw.com>; Conrad, Vic <Vic.Conrad@simplot.com>; Mark Zirschky (mark@pioneerirrigation.com) <mark@pioneerirrigation.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>

Subject: RE: Simplot Transfer 84020

Nick-

First, thanks for accommodating my schedule and moving the meeting back a little.

We've discussed this among the Simplot side of this application. I tried to talk to Andy about this, but he was tied up today. So we thought we get this idea out the door to facilitate discussion tomorrow.

1. Simplot agrees to leaving right # 63-3178A as is.

2. Simplot agrees to adding the second POD on rights #63-32570 and 63-32571 and leaving the source as is.
3. The condition on the Bardsley Gulch rights #63-22210 and 63-34911 regarding the exchange seems to work.
4. Water right #63-2343 is the hang up. It isn't correct to call the source Dixie Drain tributary to Indian Creek (as it was on the original application and the decree). The water isn't tributary to Indian Creek and wasn't when licensed. It is also not correct to say that the right is tributary to the Boise River as suggested. The water in this source goes to the West End Drain. The West End Drain is completely intercepted by the Riverside canal north of Greenleaf. It is doubtful that any of this water reaches the Boise River by that route. Instead of compounding the confusion in the names of the same source between the different water rights diverting from the same PODs, we think it is better to list the source of right #63-2343 consistent with #63-32570 and 63-32571 as the Dixie Slough tributary to the West End Drain. The issue isn't really the name. The issue that Pioneer is concerned about is whether that source is part of the federal facility that Reclamation and Pioneer have called the Dixie Drain and that Pioneer has or may have some interest in. To preserve this ownership issue for future resolution, Simplot will enter into a separate agreement with Pioneer stating that both Pioneer and Simplot reserve their respective rights to assert that the Dixie Slough tributary to the West End Drain from Kit Road west along Laurel is or is not a federal facility and that this Dixie Slough tributary to the West End Drain is or is not part of Reclamation's claims to the Dixie Drain. IDWR would place that agreement in the backfile so it is available for public inspection and would reference the existence of that agreement on water right #63-2343.

We resolve the transfer, clean up the dual names in IDWR's records for the Dixie Slough/Drain west of Kit Road along Laurel, and allow Reclamation, Pioneer, Simplot to work out their differences over ownership of the right of way and water course outside the water transfer process, when IDWR probably has no jurisdiction to determine who owns the facility anyway.

We are happy to discuss on the call tomorrow.

Albert P. Barker
Barker Rosholt & Simpson LLP
1010 W Jefferson, Suite 102
Boise, Idaho 83702
(208) 336-0700

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Barker Rosholt & Simpson LLP is the Idaho representative of the **Environmental Law Network**

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Sent: Thursday, December 31, 2020 7:59 PM

To: Smith, Tyler <Tyler.Smith@idwr.idaho.gov>; Andy Waldera <andy@sawtoothlaw.com> <andy@sawtoothlaw.com>; Albert Barker <apb@idahowaters.com>; Conrad, Vic <Vic.Conrad@simplot.com>; Mark Zirschky <mark@pioneerirrigation.com> <mark@pioneerirrigation.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>

Subject: Simplot Transfer 84020

Hello,

At our last phone conference, I committed to sending you all a mockup of what I think we landed on as far as what the rights would look like after the transfer. I have attached a PDF with marked up proof reports and a map showing the locations described on the marked up proof report. Let me know if you have any questions prior to our next zoom on Tuesday.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

12/18/2020

Water Right 63-2343

Owner Type **Name and Address**
Current Owner SIMPLOT LIVESTOCK CO
 PO BOX 27
 BOISE, ID 83707

Priority Date: 6/9/1920

Basis: Decreed

Status: Active

Source
DIXIE DRAIN

Tributary
INDIAN CREEK

Commented [MN4]: May want to change this to "Boise River"?

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/15	11/15	2.080 CFS	
	Total Diversion		2.080 CFS	

Source and Point(s) of Diversion

DIXIE DRAIN NENE Sec. 29, Twp 04N, Rge 03W, CANYON County
DIXIE DRAIN NENE Sec. 29, Twp 04N, Rge 03W, CANYON County

Commented [MN5]: Add Control structure as 2nd POD

Place Of Use

IRRIGATION within CANYON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	20									30.0				37.0	37.0			104.0

POU Total Acres: 104.0

Commented [MN6]: This will be updated to proposed PPU and the right will have an acre limit of 104 acres within the PPU.

Conditions of Approval:

- G16 This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.
- C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
- C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
- C04 Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.
- S39 The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.

Commented [MN7]: Conditions will change, but I didn't note those here.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

12/18/2020

Water Right 63-3178A

Owner Type **Name and Address**
Current Owner SIMPLOT LIVESTOCK CO
PO BOX 27
BOISE, ID 83707

Priority Date: 5/9/1960
Basis: Decreed
Status: Active

Source **Tributary**
DIXIE DRAIN BOISE RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	3.480 CFS	
	Total Diversion		3.480 CFS	

Source and Point(s) of Diversion
DIXIE DRAIN NWNE Sec. 28, Twp 04N, Rge 03W, CANYON County

Place Of Use
IRRIGATION within CANYON County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	28					40.0	40.0	19.0	16.0									115.0
04N	03W	29	40.0			19.0													59.0

POU Total Acres: 174.0

Commented [MN1]: My understanding is no change to this. It will remain at the existing pump station at Kit and will be the only right diverted from there.

Commented [MN2]: This will be updated to proposed PPU and the right will have an acre limit of 174 acres within the PPU.

Conditions of Approval:

1. G16 This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.
2. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
4. S39 The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
5. J01 Property is also known as Blk 1-24 Inc, Park West Addition.

Commented [MN3]: Conditions will change, but I didn't note those here.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

12/18/2020

Water Right 63-32570

Owner Type **Name and Address**
Current Owner J R SIMPLOT CO
1099 W FRONT ST
PO BOX 27
BOISE, ID 83707-0027
(208) 780-3287

Priority Date: 3/15/1949

Basis: Decreed

Status: Active

Source
DIXIE SLOUGH

Tributary
WEST END DRAIN

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/01	11/15	9.640 CFS	
	Total Diversion		9.640 CFS	

Source and Point(s) of Diversion

DIXIE SLOUGH
DIXIE SLOUGH

NENENE
NENE

Sec. 29, Twp 04N, Rge 03W, CANYON County
Sec. 29, Twp 04N, Rge 03W, CANYON County

Commented [MN8]: Add Control structure as 2nd POD

Place Of Use

IRRIGATION within CANYON County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	19									21.0	37.0	35.0	38.0					131.0
												L3	L4						
04N	03W	20											33.0	36.0					69.0
04N	03W	29					40.0	40.0	19.0	36.0									135.0
04N	03W	30	38.0	36.0															74.0
04N	04W	24													39.0	34.0			73.0

POU Total Acres: 482.0

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. R62 This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate.
3. E51 Right Nos. 63-32571 and 63-32570 are limited to a total combined diversion rate of 10.95 cfs.
4. F06 The following rights are diverted through point of diversion described above: 63-32571
5. The source of this water right includes waste water. The wasting of water may be discontinued at any time.

Commented [MN9]: This will be updated to proposed PPU and the right will have an acre limit of 482 acres within the PPU.

Commented [MN10]: Conditions will change, but I didn't note those here.

12/18/2020

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	J R SIMPLOT CO 1099 W FRONT ST PO BOX 27 BOISE, ID 83707-0027 (208) 780-3287

Source
DIXIE SLOUGH

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	11/15	2.480 CFS	
	Total Diversion		2.480 CFS	

DIXIE SLOUGH	N ENENE	Sec. 29, Twp 04N, Rge 03W, CANYON County
<u>DIXIE SLOUGH</u>	<u>NENE</u>	<u>Sec. 29, Twp 04N, Rge 03W, CANYON County</u>

[illegible]

1.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2.	F06	The following rights are diverted through point of diversion described above: 63-32570
3.	E51	Right Nos. 63-32570 and 63-32571 are limited to a total combined diversion rate of 10.95 cfs.
4.	R62	This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate.
5.		The source of this water right includes waste water. The wasting of water may be discontinued at any time.

Page 4 of 7

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

12/18/2020

Water Right 63-22210

Owner Type **Name and Address**
Current Owner SIMPLOT LIVESTOCK CO
 PO BOX 27
 BOISE, ID 83707

Priority Date: 3/1/1949

Basis: Decreed

Status: Active

Source
BARDSLEY GULCH DRAIN

Tributary
SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/01	11/15	0.500 CFS	
	Total Diversion		0.500 CFS	

Source and Point(s) of Diversion

BARDSLEY GULCH DRAIN	SESE	Sec. 29, Twp 04N, Rge 03W, CANYON County
BARDSLEY GULCH DRAIN (I)	SWNE	Sec. 29, Twp 04N, Rge 03W, CANYON County
BARDSLEY GULCH DRAIN (R)	NENE	Sec. 29, Twp 04N, Rge 03W, CANYON County
BARDSLEY GULCH DRAIN (R)	NENE	Sec. 29, Twp 04N, Rge 03W, CANYON County

Place Of Use

IRRIGATION within CANYON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	29							17.0	8.0									25.0

POU Total Acres: 25.0

Commented [MN13]: This will be updated to proposed PPU and the right will have an acre limit of 25 acres within the PPU.

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. G21 The source of this water right is waste water. The wasting of water may be discontinued at any time.
3. F05 Right No. 63-2291 is also diverted through point of diversion described above.
4. R65 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

Commented [MN14]: Conditions will change, but I didn't note those here.

This right will have a condition explaining that "Water diverted under this right is exchanged by injecting water diverted under this right into the West End Drain at the point of injection described above, and diverting an equal amount from the Dixie Slough at the points of redistribution described above."

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

12/18/2020

Water Right 63-34911

Commented [MN15]: This is the portion split off of 63-2291

Owner Type **Name and Address**
Current Owner J R SIMPLOT CO
C/O JAMES B ALDERMAN
PO BOX 27
BOISE, ID 83707-0027
(208) 336-2110

Priority Date: 6/10/1916

Basis: Decreed

Status: Active

Source
BARDSLEY GULCH DRAIN

Tributary
SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	1.420 CFS	
	Total Diversion		1.420 CFS	

Source and Point(s) of Diversion

Source	Point(s)	Location
BARDSLEY GULCH DRAIN	SESE	Sec. 29, Twp 04N, Rge 03W, CANYON County
<u>BARDSLEY GULCH DRAIN (I)</u>	<u>SWNE</u>	<u>Sec. 29, Twp 04N, Rge 03W, CANYON County</u>
<u>BARDSLEY GULCH DRAIN (R)</u>	<u>NENE</u>	<u>Sec. 29, Twp 04N, Rge 03W, CANYON County</u>
<u>BARDSLEY GULCH DRAIN (R)</u>	<u>NENE</u>	<u>Sec. 29, Twp 04N, Rge 03W, CANYON County</u>

Place Of Use

IRRIGATION within CANYON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	29		40.0	31.0														71.0

POU Total Acres: 71.0

Commented [MN17]: This will be updated to proposed PPU and the right will have an acre limit of 71 acres within the PPU.

Conditions of Approval:

1. G16 This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. S39 The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
4. C04 Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.
5. W40 Use of this right is combined with water from Pioneer Irrigation District.

Commented [MN18]: Conditions will change, but I didn't note those here.

This right will have a condition explaining that "Water diverted under this right is exchanged by injecting water diverted under this right into the West End Drain at the point of injection described above, and diverting an equal amount from the Dixie Slough at the points of rediversion described above."

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

12/18/2020

Water Right 63-2291

Commented [MN19]: This is the unchanged portion of 63-2291

Owner Type
Current Owner

Name and Address
SIMPLIT LIVESTOCK CO
PO BOX 27
BOISE, ID 83707

Priority Date: 6/10/1916
Basis: Decreed
Status: Active

Source
BARDSLEY GULCH DRAIN

Tributary
SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	0.580 CFS	
	Total Diversion		0.580 CFS	

Source and Point(s) of Diversion
BARDSLEY GULCH DRAIN SESE Sec. 29, Twp 04N, Rge 03W, CANYON County

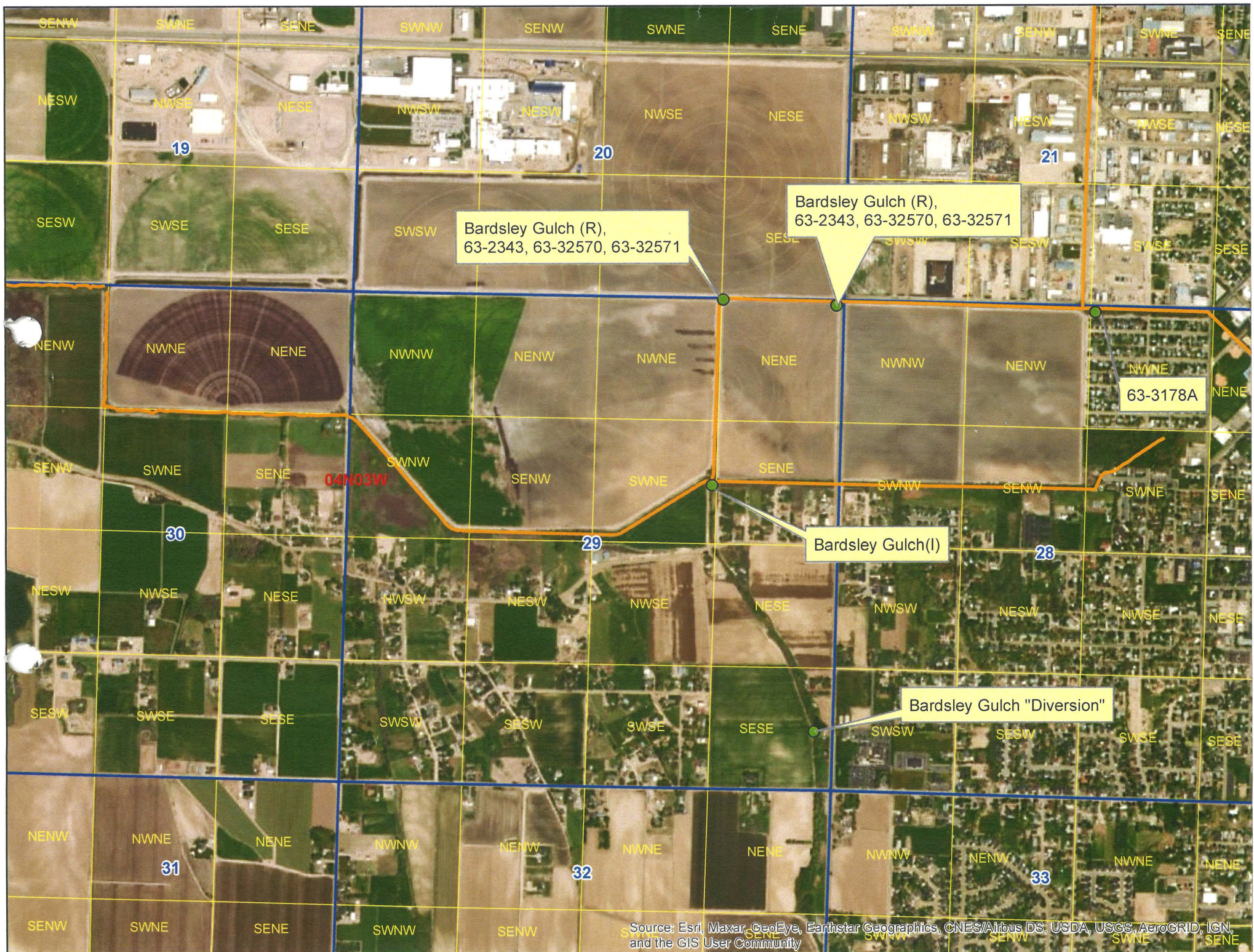
Place Of Use
IRRIGATION within CANYON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	03W	29			10.0												19.0		29.0

POU Total Acres: 29.0

Conditions of Approval:

1. G16 This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. S39 The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
4. C04 Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.
5. W40 Use of this right is combined with water from Pioneer Irrigation District.



Miller, Nick

From: Andy Waldera <andy@sawtoothlaw.com>
Sent: Friday, December 18, 2020 11:40 AM
To: Barker, Albert (IWRB Member); Miller, Nick
Cc: 'Mark Zirschky (mark@pioneerirrigation.com)'; Conrad, Vic; Moon, Rebecca
Subject: RE: Simplot Transfer Application

Good morning, folks.

I write, hopefully, in aid of this afternoon's status conference after Pioneer having conferred with Reclamation over the "Dixie Drain" versus "Dixie Slough" proposal, and, hopefully, in an effort to separate the water right transfer issues from the seemingly thornier ditch use/easement rights (and corresponding operation and maintenance obligation)-related issues.

Bottom line, Reclamation is uncomfortable at this moment with Pioneer blanketly agreeing to naming the "L"-shaped ditch extending from S. Kit Avenue to the concrete control structure and then south to the West End Drain "Dixie Slough." Pioneer acknowledges Simplot's initial reaction/contention that Reclamation owns no express easement in that ditch configuration, and that Reclamation's role in this matter is "unclear" to Simplot. This said, and without arguing the merits of the easement this/ownership that matter, there is no question that: (1) the "L"-shaped ditch is currently part of the NEPA-vetted facilities title transfer between the United States, Pioneer, and the City of Caldwell; and (2) Reclamation has in the past issued license agreements (i.e., Consent to Use) agreements to utility companies authorizing those companies to cross the "L"-shaped ditch in various locations. Simplot has requested that Reclamation remove the "L"-shaped ditch from the proposed title transfer, but Reclamation has not done so and it not inclined to do so at this moment in time. Pioneer is not willing to get out ahead of Reclamation on this ditch naming issue.

But, trying to advance the transfer application ball, Pioneer proposes (and Reclamation supports to this point) a conditional withdrawal of Pioneer protest that:

1. Moves, as Simplot proposed, the Simplot PODs to the existing pump stations at Kit and Farmway, and to the concrete control structure where the ditch turns south to the West End Drain;
2. Ditch naming conventions at the pump stations to remain as decreed by the SRBA ("Dixie Drain" at the Kit pump station, and "Dixie Slough" at the Farmway pump station); and
3. Express reciprocal agreement of Simplot and Pioneer acknowledging the ditch naming and use disagreement amongst them concerning the "L"-shaped ditch and reserving that issue as one for resolution outside of the water right transfer process. Though no language has been drafted to this effect yet, it would follow along the lines of framing the issue and stating that nothing contained in Pioneer's conditional withdrawal grants, confirms, affects or relinquishes/releases any ditch rights or easements that may exist; rather those questions/issues remain disputed and remain to be resolved separately from the IDWR transfer application evaluation process.

I realize that this proposal does not yet address what to call the "L"-shaped ditch at the concrete control structure just west of the Farmway pump station. Unless I misunderstand, that location is not already a decreed POD for any existing Simplot water rights, thus the ditch at that location has not been licensed by IDWR or decreed by the SRBA Court as a named "source." My admittedly inartful suggestion at that location (given that I know Reclamation is presently unwilling to agree to changed naming conventions but for where those naming conventions are addressed by SRBA decrees) is to call the source "Dixie Slough or Drain." Both a slough and drain are appropriable water sources (i.e., suitable POD locations). I know Simplot contends "Slough" and I know Pioneer and Reclamation contend "Drain"; can we somehow

combine the two in order to allow the transfer application to move forward in an uncontested manner (save for the contents of the conditional protest withdrawal stipulation)?

Thank you everyone for your consideration.

Andy

Andrew J. Waldera

SAWTOOTH LAW OFFICES, PLLC

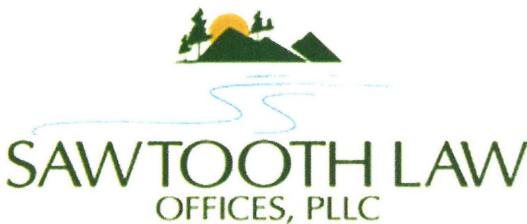
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From: Albert Barker <apb@idahowaters.com>

Sent: Monday, December 7, 2020 10:35 AM

To: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Cc: 'Mark Zirschky (mark@pioneerirrigation.com)' <mark@pioneerirrigation.com>; Conrad, Vic

<Vic.Conrad@simplot.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>; Andy Waldera <andy@sawtoothlaw.com>

Subject: RE: Simplot Transfer Application

Nick-

I have spoken with Vic and Rebecca. We have no objection to moving the status conference either to this Friday – December 11th - or next Friday – December 18th. The rest of the days next week are not available (including Monday and Tuesday as Nick you suggested).

We note that Reclamation is not a party to the protest and has indicated to us that Reclamation does not intend to participate in the water right transfer proceeding.

Second, the source of water as the Dixie Slough was decreed in the SRBA for the existing water rights at Farmway. Neither Pioneer nor Reclamation objected to the source and that is a final judgment not subject to being revisited, as the courts have repeatedly held.. The resolution proposed at our last conference does not involve changing the source. It merely moves the POD for the Bardsley Gulch right to that source and adds a POD at the spillway.

Under these circumstances, what role Reclamation has in the protest is unclear to us.

Albert P. Barker

Barker Rosholt & Simpson LLP

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From: Andy Waldera <andy@sawtoothlaw.com>

Sent: Monday, December 7, 2020 9:09 AM

To: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Cc: 'Mark Zirschky (mark@pioneerirrigation.com)' <mark@pioneerirrigation.com>; Albert Barker <apb@idahowaters.com>; Conrad, Vic <Vic.Conrad@simplot.com>; Moon, Rebecca <Rebecca.Moon@simplot.com>

Subject: Simplot Transfer Application

Good morning, Nick.

We currently have a call scheduled for this Wednesday the 9th to further discuss the pending "Dixie Slough" nomenclature proposal. Unfortunately, the soonest that Mark and I could get with BOR to discuss the proposal is this coming Thursday the 10th. Any chance we can push the phone conference to next week some time? Pioneer would like to visit with BOR before making a final decision regarding the proposal.

Thanks,
Andy

Andrew J. Waldera

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Miller, Nick

From: Miller, Nick
Sent: Wednesday, November 25, 2020 6:59 PM
To: 'Albert Barker'; 'Andy Waldera (andy@sawtoothlaw.com)'; 'Mark Zirschky
Cc: Vic.Conrad@simplot.com; Rebecca Moon (Rebecca.Moon@simplot.com)
Subject: RE: Simplot transfer & protest
Attachments: Simplot 84020.docx

Dear Parties:

I have attached a word document with a couple of maps that might be helpful to put my comments in context. I have also included the Zoom information for Monday's meeting at the end of this email.

I think Al's suggestion is almost there. Two concerns:

1. I think we want to make a clear distinction that the ditch/drain west of the split is an appropriable water source "Unnamed Drain" and is a separate and distinct from the Dixie Drain upstream of the splitter and downstream to the south of the splitter. I say this because I thought the main issue Pioneer expressed was that they didn't want the channel west of the split to be considered the Dixie Drain (lest they someday become burdened with maintenance). I think there is historical context to support the distinction. See the attached documents.
2. Because the channel west of the splitter is a separate source, we wouldn't add Unnamed Drain as a source to the Dixie rights because that is akin to establishing a new appropriation of the unnamed drain water under the existing priority date – in other words, an enlargement.

I still have a couple of questions (see the second map in the attached word doc), but I think we can make it work as follows:

- Put a diversion for the Dixie sourced rights at the splitter to divert water out of the Dixie Drain and into the Unnamed Drain. Also, Simplot may want to add the Orange dot at laurel and Kit to each of these rights as well.
- Since the Unnamed drain is itself a source, the "white dots" are points of rediversion for the Dixie Drain water that was injected into the Unnamed Drain at the splitter. Because the Unnamed drain is a separate source, rediversion of the Dixie rights at the white dots would be limited to the amount of water injected into the Unnamed Drain from the Dixie Drain.
- For the Bardsley Gulch rights, we can exchange the Bardsley Gulch water for water diverted from the Dixie Drain and the Unnamed Drain (i.e. list both sources and define the "white dots" as points of diversion for the Unnamed Drain water and list the split (and the Orange dot at laurel and Kit if Simplot wants to) as points of diversion for Dixie Drain water. The use of water under the Bardsley Gulch water rights would be limited to the amount of water available at the original point of diversion to the extent that amount is making it into the West End Drain. I suppose we should also list the White dots as points of rediversion for the Dixie Drain water injected into the Unnamed Drain as well, but maybe we can just handle that in a condition of approval.
- To the extent Simplot remains concerned that there will be gains in the Unnamed Drain that they would like to be able to divert – they can file for a new appropriation of the Unnamed Drain and list the White Dots as points of diversion.

Also Note – the two rights that list the source as the "Dixie Slough" should probably be changed to "Dixie Drain" to avoid confusion with the Dixie Slough that exists to the west of this area.

Here is the Zoom info:

Nick Miller is inviting you to a scheduled Zoom meeting.

Topic: Simplot Transfer 80402

Time: Nov 30, 2020 01:30 PM Mountain Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/j/95278225527?pwd=QXhNUXp1dWZXZUo4L0VNS3FueE0zZz09>

Meeting ID: 952 7822 5527

Passcode: 326394

One tap mobile

+12532158782,,95278225527# US (Tacoma)

+13462487799,,95278225527# US (Houston)

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 301 715 8592 US (Washington D.C)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

Meeting ID: 952 7822 5527

Find your local number: <https://zoom.us/u/ackljxH1z9>

From: Albert Barker [mailto:apb@idahowaters.com]

Sent: Monday, November 16, 2020 12:42 PM

To: Miller, Nick <Nick.Miller@idwr.idaho.gov>; 'Andy Waldera (andy@sawtoothlaw.com)' <andy@sawtoothlaw.com>; 'Mark Zirschky <mark@pioneerirrigation.com>

Cc: Vic.Conrad@simplot.com; Rebecca Moon (Rebecca.Moon@simplot.com) <Rebecca.Moon@simplot.com>

Subject: Simplot transfer & protest

Nick, Andy, Mark

We caucused after the status conference Zoom meeting on Thursday. Thank you for hosting and attending.

We have a suggestion to consider:

1. The source for all the water rights post-transfer would be Dixie Drain and "unnamed drain"
2. The PODs for all the water rights post-transfer would be the orange dot at Kit and Laurel and the two white dots in the transfer application. The POD at Farmway and Laurel would go away on any right it is currently on. If we use both sources as Dixie and unnamed, it wouldn't be necessary to treat the white dots as points of redirection. If we do have to show a point of redirection, perhaps each white dot could be both a POD and a point of redirection?
3. Each right in the transfer would retain its current waste water remark.

Please let us know if this solves the problems.

Albert P. Barker

Barker Rosholt & Simpson LLP

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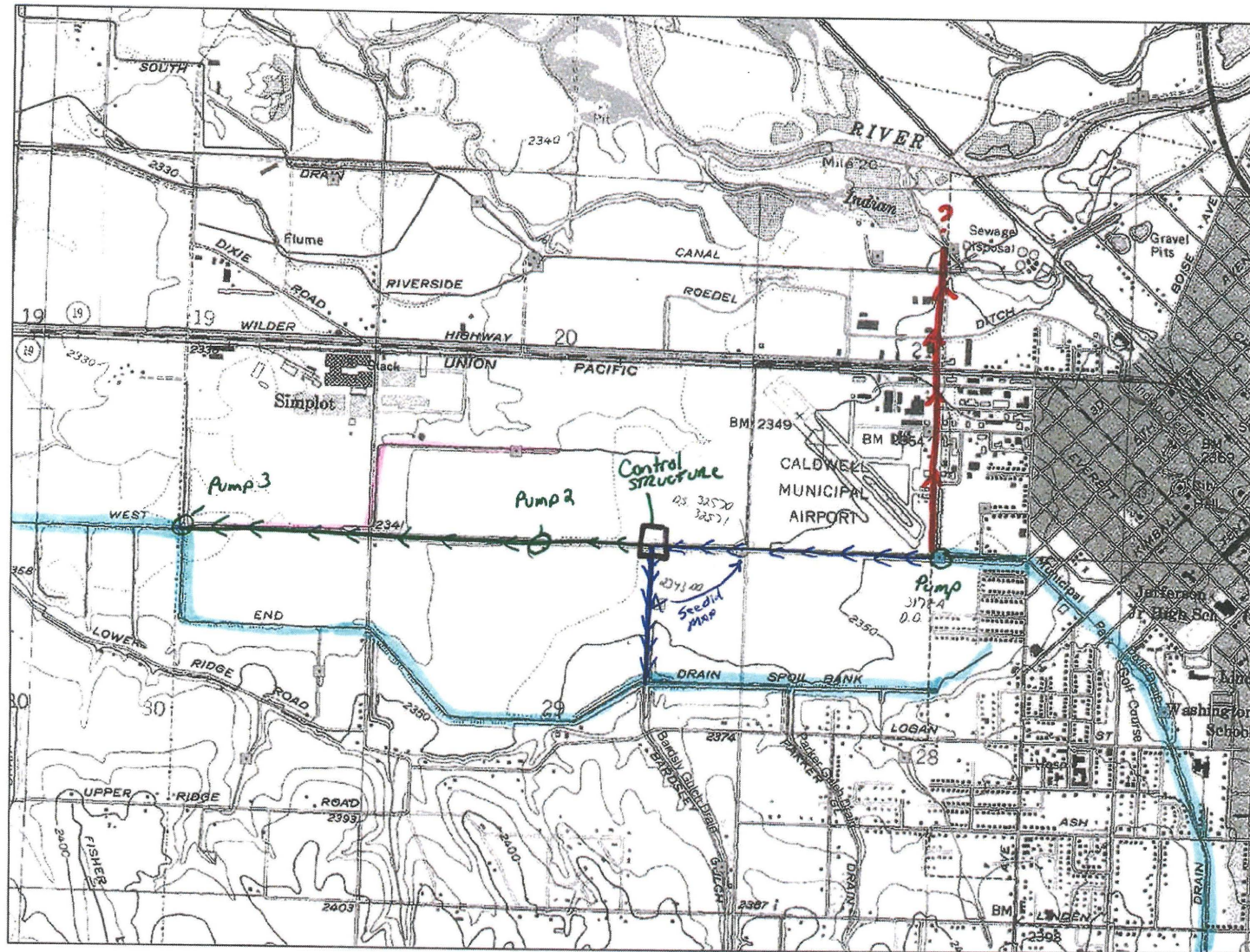
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1. The Dixie Drain was modified in approximately 1920 and rerouted at approximately the corner of Kit and Laurel. At that location, it used to flow north to the Boise River (perhaps via Indian Creek), and after the modification it flows west along Laurel past Farmway Rd at least as far as a point at the NENWNE of Section 29 (I'll call that the "Control Box"). At the Control Box, water can be diverted either south to the West End Drain, or west, also ultimately to the West End Drain.
2. The route from the Control Box to the south appears to be the route for the Dixie Drain constructed (I think by the City) in 1920ish based on a map from that time period. The route to the west was not depicted on that map, so I assume it was constructed later or was not thought of as the "Dixie Drain" at that time.
3. The route to the west is the route that is in dispute. Based on the above observations, one path forward is to consider the point up to the Control Box and on south to the West End Drain to be the Dixie Drain and the path west from the Control Box could be considered an "unnamed drain".

In the image below, the light blue lines are the drains – Dixie Drain on the East (right) and West End Drain along the bottom (south) half. Note that the Dixie Drain used to flow north (red line) near the corner of Kit and Laurel, near the approximate location of the existing pump station and was directly tributary to the Boise River (or may have discharged into Indian Creek first). That route was



I would like some clarification about what Pump 3 (station located at the SESW S19) is actually pumping. See the image below:



SYMS-YORK CO., BOISE 102628

NAME OF APPLICANT Lloyd A. & Walter K. Waterman

SCALE: 2 INCHES EQUAL 1 MILE. DRAW PLAN IN INK