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J. R. Simplot Company, LLC
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APR 03 2026
DEPARTMENT OF
WATER RESOURCES

Attorney for Simplot

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

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	)	
IN THE MATTER OF WATER SUPPLY	)	J.R. SIMPLOT COMPANY,
SUPPLY BANK LEASE CONTRACT AND	)	LLC's PETITION FOR
RENTAL AGREEMENT FOR IDAHO	)	RECONSIDERATION,
DEPARTMENT OF WATER RESOURCES	)	MODIFICATION AND
WATER RIGHT 35-4189	)	REQUEST FOR HEARING ON
	)	WATER SUPPLY BANK LEASE
	)	CONTRACT 2137 & RENTAL
	)	AGREEMENT 997
	)	

J. R. SIMPLOT COMPANY, LLC ("Simplot") respectfully requests the Idaho Department of Water Resources ("IDWR") reconsider its conditions of approval for WATER SUPPLY BANK LEASE NO. CONTRACT 2137 ("Lease Contract") and RENTAL AGREEMENT NO. 997 ("Rental Agreement") to remove or revise certain restrictive limitations inserted by IDWR related to the diversion rate and diversion volume for the Lease Contract and the maximum authorized irrigated acreage 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 IDWR water right no. 35-4189 decreed in the Snake River Basin Adjudication with a November 14, 1960 priority, for the diversion of groundwater at a rate of up to 1.78 cfs, and a volume of up to 1,288.7 acre-feet ("af") annually for commercial uses, and up to 436 af annually for the irrigation of 109 acres. Beginning in 2016, Simplot leased 0.84 cfs and 609.3 af of the water right to the Idaho Water Supply Bank ("Water Bank") to facilitate rentals of the

water right from the Water Bank for irrigation purposes. The lease was renewed in 2021 through 2022, to facilitate rentals for commercial, industrial and domestic purposes, which were active until December 31, 2022, when the terms of the last lease/rental approvals expired.

2. At the time Water Bank leases for water right 35-4189 concluded in 2016 and 2022, Idaho Code 42-1764 provided that the five year period of nonuse pursuant to section 42-222(2), Idaho Code, should continue to accrue against a leased right, if a period of nonuse occurred prior to the effective date of acceptance of the right into the bank and the right was not beneficially used while in the bank. Because water right 35-4189 was beneficially used when it was rented from the Bank in 2016, 2021 and 2022, the period of nonuse under the water right should have reset when the water right was released from the Bank at the end of 2016 and 2022.
3. Simplot irrigates farm ground typically serviced by groundwater irrigation rights 29-2515 and 29-7089. Water rights 29-2515 and 29-7089 were curtailed pursuant to a 2025 order of the Director of the IDWR. Water right 35-4189 is not subject to the same curtailment order of the Director of IDWR. Water rights 29-2515 and 29-7089 together authorize the irrigation of a combined 196 acres.
4. On July 14, 2025, to mitigate for the curtailment of water rights 29-2515 and 29-7089, Simplot submitted new lease/rental applications, along with IDWR's filing fees, for water right 35-4189, proposing a lease diversion rate and volume of 1.76 cfs and 1,273.7 af, for commercial and irrigation uses, coupled with a request to rent 1.76 cfs and 704 af of the leased right, for the irrigation of 196 acres. IDWR numbered these submissions as Lease Application No. 3243 and Rental Application No. 3242.
5. Simplot requested a 2025 start date for both Lease Application No. 3243 and Rental Application No. 3242. Simplot was notified by IDWR in 2025 that the lease/rental applications could not be processed in time, due to IDWR resource constraints, in order to commence the Lease and Rental in 2025. IDWR asked Simplot to confirm whether Simplot desired to maintain Lease Application No. 3243 and Rental Application No. 3242, to allow them to be processed in time for the start of the 2026 irrigation season. Simplot affirmed it desired that Applications No. 3242 and 3243 be processed for the 2026 irrigation season.

6. On December 25, 2025, Simplot submitted an email to IDWR staff, to inquire about the processing status of Lease Application No. 3243 and Rental Application No. 3242. No response from IDWR was received by Simplot.
7. On March 2, 2026, Simplot again submitted an email to IDWR staff, to inquire about the processing status of processing of Lease Application No. 3243 and Rental Application No. 3242. IDWR staff notified Simplot via email on March 2, 2026, that IDWR would look into the processing status of the Water Bank applications.
8. On March 5, 2026, IDWR staff emailed Simplot to request information confirming the validity of water right 35-4189. On March 5, 2026, Simplot replied to IDWR's email, providing information affirming the validity of water right 35-4189.
9. On March 16, 2026, Simplot submitted an email to IDWR staff, to inquire about the processing status of Lease Application No. 3243 and Rental Application No. 3242. No response from IDWR was received by Simplot.
10. On March 16, 2026, Simplot submitted to IDWR a follow up email, to impress upon IDWR that Simplot desired for a rental agreement to be processed in time for the start of the 2026 irrigation season. Simplot offered to IDWR that a rental volume of 500 af would be sufficient for the irrigation of the 196 acres under Rental Application No. 3242.
11. On March 18, 2026, IDWR responded to Simplot via email, and in written correspondence, stating IDWR considered the entirety of water right 35-4189 to be ineligible for lease to the Water Bank, based on concerns that five years of nonuse had elapsed under the water right.
12. On March 18, 2026, Simplot responded to IDWR and affirmed the rental of water right 35-4189 from the Water Supply Bank in 2016, 2021 and 2022 was evidence of beneficial use under the water right. Simplot reminded IDWR the 2016, 2021 and 2022 rentals reset the five-year period of nonuse under water right 35-4189. No response was received from IDWR by Simplot.

13. On March 20, 2026, Simplot emailed IDWR again, to inquire about the processing status of Lease Application No. 3243 and Rental Application No. 3242. Simplot reminded IDWR staff it was Simplot's desire that a rental agreement for water right 35-4189 should be executed and secured for the start of the 2026 irrigation season.
14. On March 20, 2026, IDWR issued to Simplot Water Supply Bank Lease Contract No. 2137 with a diversion rate of 0.84 cfs and 609.2 af, reflecting the same amounts approved for lease in 2016, 2021 and 2022. Concurrent with the issuance of Water Bank Lease Contract No. 2137, IDWR also issued to Simplot Water Bank Rental Agreement No. 997, authorizing a rental of the 609.2 af, for the irrigation of 152 acres. IDWR further conditioned the authorized irrigation use under Agreement No. 997 to be for no more than 0.84 cfs and 533 af, for the irrigation of 152.3 acres, to prevent enlargement of existing rights at the rental place of use.
15. On March 23, 2026, Simplot emailed IDWR, to request amendments to Lease Contract No. 2137 and Rental Agreement No. 997, that reflected the lease and rental rate, volume and acre amounts requested by Simplot through Water Bank Applications No. 3242 and 3243. No response from IDWR was received by Simplot.
16. On March 24, 2026, Simplot submitted an email to IDWR staff, to inquire about the requested amendments to Lease Contract No. 2137 and Rental Agreement No. 997. A response was received by Simplot from IDWR on March 24, 2026, stating phones and internet at IDWR were not working and that staff would respond to Simplot once connectivity was restored.
17. On March 25, 2026, Simplot emailed IDWR to inquire whether IDWR would soon respond to Simplot's request for amendments to Lease Contract No. 2137 and Rental Agreement No. 997. In Simplot's emails to IDWR, Simplot reminded IDWR its primary concern was to secure a rental of at least 500 af for the irrigation of 196 acres and that, as an accommodation, Simplot was prepared to execute a rental agreement for 609 af, for the irrigation of 196 acres, under an amended Rental Agreement No. 997. No response from IDWR was received by Simplot.
18. On March 26, 2026, Simplot inquired in-person with IDWR staff at IDWR's State Office, to impress upon IDWR that amendments to Rental Agreement No. 997 were necessary to

accommodate Simplot's desired irrigation of 196 acres, beginning April 1, 2026. Simplot also verbally offered to IDWR staff that if IDWR amended Lease Contract No. 2137, to lease into the Bank the amounts requested by Simplot, while simultaneously making only 609.2 af of water right 35-4189 rentable from the Water Supply Bank, Simplot would not object. Simplot reminded IDWR staff that, because water rights 29-2515 and 29-7089 are administratively curtailed by order of the Director of IDWR, and no water diversion or use is authorized under water rights 29-2515 and 29-7089 until those rights achieve adequate mitigation, it is impossible for water rights 29-2515 and 29-7089 to be enlarged through a rental of water right 35-4189 under Rental Agreement No. 997.

19. On March 27, 2026, IDWR staff emailed Simplot to affirm they would work towards finalizing the drafting of Lease Contract No. 2137 and Rental Agreement No. 997 in time for execution of the approvals on March 30, 2026. On March 27, 2026, Simplot responded to IDWR staff, reiterating that if IDWR approved an amended Lease Contract No. 2137, that accepted for lease the full amounts proposed by Simplot, while making only 609.2 af rentable under water right 35-4189 during the term of the lease, Simplot would not object.
20. On March 30, 2026, IDWR staff emailed Simplot and provided the same Water Bank lease and rental approvals drafted and provided to Simplot by IDWR on March 20, 2026. IDWR staff affirmed they would not consider Simplot's requested amendments to Lease Contract No. 2137 and Rental Agreement No. 997.

ARGUMENT

Because the period of nonuse under water right 35-4189 was reset when the right was released from the Water Bank at the end of 2022, five years of successive nonuse had not occurred under water right 35-4189, for any portion of the right, when the lease/rental applications were submitted in 2025.

The entire requested portion of water right 35-4189 proposed for lease through Water Bank Application No. 3243, 1.76 cfs and 1,273.7 af, should be accepted into the Water Bank under an

amended Lease Contract No. 2137. IDWR's proposed lease of 0.84 cfs and 609.2 af under Lease Contract No. 2137 is overly restrictive and does not reflect the lease amounts requested by Simplot through Water Bank Application No. 3243. IDWR has provided no basis to justify a reduction in the water use amounts of water right 35-4189 approved to be leased through Water Bank Contract No. 2137.

Water right 35-4189 is a fully consumptive water right that historically supplied groundwater for a commercial potato processing facility. Because water right 35-4189 is fully consumptive, no enlargement is possible when the entirety of the leased volume under the right is diverted under a Water Bank rental.

As requested by Simplot, 1.76 cfs and 704 af of water right 35-4189, for the irrigation of 196 acres, should have been included in Rental Agreement No. 997. IDWR's proposed rental of 0.84 cfs and 609.2 af under water right 35-4189, for the irrigation of 152 acres is overly restrictive and does not reflect the rental amounts requested by Simplot through Water Bank Application No. 3242. In addition, IDWR provided no basis to justify a reduction in the water use amounts or acreage limits of water right 35-4189 requested to be rented by Simplot through Water Bank Application No. 3242. Without waiving any rights Simplot may have for the entirety of water right 35-4189, Simplot would be amenable to IDWR limiting the amount of water right 35-4189 available for rental through Rental Agreement No. 997 to be 609.2 af for the irrigation of 196 acres.

CONCLUSION

Because the conditions do not exist for limiting the amounts of water right 35-4189 proposed for lease by Simplot through Water Bank Lease Application No. 3243, Simplot requests your consideration to amend and reissue Lease Contract 2137. Further, because the conditions do not exist for limiting the rental of water right 35-4189 to a maximum irrigation of 152 acres, Simplot requests your consideration to amend and reissue Rental Agreement 997, to authorize the irrigation of 196 acres, as requested through Water Bank Rental Application No. 3242. 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 1st day of April, 2026.

J. R. SIMPLOT COMPANY, LLC



By: Rebecca Voss
Managing Counsel Corporate and Real Estate
Transactions

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 3, 2026, I served by hand delivery the foregoing PETITION FOR RECONSIDERATION, MODIFICATION AND REQUEST FOR HEARING ON WATER SUPPLY BANK LEASE CONTRACT 2137 AND RENTAL AGREEMENT 997 to the address listed below:

RE: Water Supply Bank Lease Contract 2137
Water Supply Bank Rental Agreement 997
Water Right No.: 35-4189

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


Remington Buyer
Water Right Specialist



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

1099 West Front Street
Boise, Idaho 83702

Remington.Buyer@simplot.com
208 780 0959 Business
208 780 7333 Fax

RECEIVED

Apr 03, 2026

DEPARTMENT OF
WATER RESOURCES

April 3, 2026

Hand Delivery

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

Re: IDWR Water Right 35-4189; Water Supply Bank Lease Contract 2137 & Rental Agreement 997.

Dear Mat:

Enclosed are Water Supply Bank Lease Contract No. 2137 and Water Supply Bank Rental Agreement No. 997, signed by Simplot under objection to the arbitrary, unsupported limits proposed by IDWR staff, limiting Simplot's use of its water right. I am also enclosing a check in the amount of \$2,010.36 to cover fees for the use of the rented water during 2026.

In addition, also enclosed is a copy of a Petition for Reconsideration, Modification and Request for Hearing on Water Supply Bank Lease Contract 2137 & Rental Agreement 997 filed on this same day with the IDWR.

Sincerely,

Remington Buyer
Land, Water & Asset Recovery

Enclosures: Petition for Reconsideration, Modification and Request for Hearing on Water Supply Bank Lease Contract 2137 & Rental Agreement 997



Hersley, Jean

From: Buyer, Remington <Remington.Buyer@simplot.com>
Sent: Friday, April 3, 2026 1:28 PM
To: IDWR File
Cc: Bank
Subject: Submission of Signed WSB Contracts and Agreement with Petition for Reconsideration
Attachments: Packet - Signed Contract & Agreement with Petition for Reconsideration & Modification.pdf

Follow Up Flag: Follow up
Flag Status: Completed

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.

Hello,

The attached is an electronic copy of physical files delivered today to IDWR's State Office.

Thank you,

-Remington Buyer
(208) 780-0959