

NOTICE OF EXISTING REAL ESTATEPURCHASE AGREEMENT

TO WHOM IT MAY CONCERN:

It is hereby made of public record that a Real Estate Purchase Agreement, dated December 10, 1991, by and between BOX RANCH, INC., a Wyoming Corporation, ALFRED E. SORENSON, President, and COLLEEN H. SORENSON, Secretary of P.O. Box 454, Afton, Lincoln County, Wyoming 83110, Sellers and JOHN TAFT CORPORATION, of 2158 Baldwin Road, Ojai, California 93023, and JOHN E. TAFT and MELODY TAFT, husband and wife, of 2158 Baldwin Road, Ojaie, California 93023, and THE HARTMAN FAMILY TRUST, dated July 8, 1986; WALTER E. HARTMAN JR., Trustee, of 3498 Pacific Coast Highway, Ventura, California 93003, Purchasers, exists for the purchase of the following described real property situate in the County of Caribou, State of Idaho, to-wit:

Township 9 South, Range 46 East, Boise Meridian:
 Section 8: SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Section 9: SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Section 10: SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Section 15: W $\frac{1}{2}$, NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Section 17: E $\frac{1}{2}$;
 Section 20: E $\frac{1}{2}$ NE $\frac{1}{4}$;
 Section 21: N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Section 22: W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$.

Together with all water rights, minor or mineral reservations of sight or record, legally acquired.

Said Real Estate Purchase Agreement is being held in escrow by the Star Valley State Bank, Afton, Wyoming.

DATED this 10th day of December, 1991.

(SEAL)

BOX RANCH, INC.

BY: Alfred E. Sorenson
 ALFRED E. SORENSON, Pres.

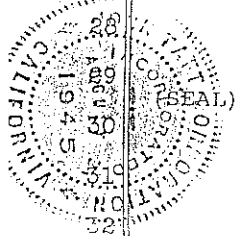
SELLERS:

ATTEST: Colleen H. Sorenson
 COLLEEN H. SORENSON, Sec.

JOHN TAFT CORPORATION

BY: John E. Taft
 JOHN E. TAFT

ATTEST: Brenda Miller
John E. Taft
 JOHN E. TAFT



PURCHASERS:

Melody Taft
MELODY TAFTTHE HARTMAN FAMILY TRUST
Dated July 8, 1986

BY:

Walter E. Hartman Jr.
WALTER E. HARTMAN JR.,
TrusteeSTATE OF _____)
COUNTY OF _____) SS.The foregoing instrument was acknowledged before me by
Alfred E. Sorenson, and Colleen H. Sorenson of Box Ranch, Inc.
this _____ day of December, 1991.

WITNESS my hand and official seal.

NOTARY PUBLIC

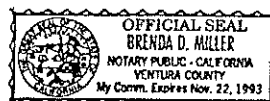
My Commission Expires:

STATE OF California)
COUNTY OF Ventura) SS.The foregoing instrument was acknowledged before me by
John E. Taft of John E. Taft Corporation this 9th day of
December, 1991.

WITNESS my hand and official seal.

Brenda D. Miller
NOTARY PUBLIC

My Commission Expires:

11-22-93STATE OF California)
COUNTY OF Ventura) SS.The foregoing instrument was acknowledged before me by
John E. Taft and Melody Taft, husband and wife, this 9th day of
December, 1991.

WITNESS my hand and official seal.

Brenda D. Miller
NOTARY PUBLIC

My Commission Expires:

11-22-93

SCHEDULE "A"

BOX RANCH LEGAL DESCRIPTION

State of Idaho, to-wit: Township 9 South, Range 46 East, Boise Meridian:

Section 8: SE1/4 SE1/4;
 Section 9: SW1/4, S1/2 NW1/4, SW1/4 NE1/4, NW1/4 SE1/4;
 Section 10: SW1/4, S1/2 NW1/4, W1/2 SE1/4, SE1/4 SE1/4;
 Section 15: W1/2, NE1/4, W1/2 SE1/4;
 Section 17: E1/2;
 Section 20: E1/2 NE1/4;
 Section 21: N1/2, N1/2 SE1/4, E1/2 SW1/4;
 Section 22: W1/2, W1/2 E1/2.

Together with water rights as adjudicated to the Box Ranch, by the Fifth Judicial District Court in Twin Falls, Idaho, in 1989.

Type of Use	Number	Source	Priority	Period of Total Use	Appropriation	Acres
Irrigation	A24-04015 ^{OK}	Crow Creek	Jan 26 1903	04-01 to 11-01	5.00 CFS to 371.50 Acre-Feet	115.00 Acres
Irrigation	A24-04016 ^{OK}	Horse (Rock) Creek	Jan 26 1903	04-01 to 11-01	5.00 CFS to 572.50 Acre-Feet	229.00 Acres
Irrigation	A24-04017 ^{OK}	Sage Canyon Creek	Sept 18 1888	04-01 to 11-01	1.40 CFS to 197.50 Acre-Feet	79.00 Acres
					11.40 CFS to 1,147.50 Acre-Feet	423.00 Acres
Stockwater	A24-10011	Spring	May 1 1903	04-01 to 11-01	0.030 CFS to 100 Head of Cattle	
Stockwater	A24-10012	Spring	May 1 1903	04-01 to 11-01	0.030 CFS to 100 Head of Cattle	
Domestic	A24-10013	Spring	May 1 1903	Year Round	2 Hmes	

GRAZING LEASES AND ALLOTMENTS TO BE TRANSFERRED TO PURCHASER

- Idaho State Grazing Lease No. 3253 "Headquarters" Section 16, T9S, R46E, BM
- BLM Buck Mountain Grazing Allotment No. 04145 "Headquarters"
- U.S.F.S. Montpelier-Elk Valley Allotment No. 30014
- U.S.F.S. Stump Creek Allotment No. 20107
- Plus all of Sellers right, title, and interest in the Star Valley Cattle Association.

DATE: 12-10-91

INITIAL: WJ

INITIAL: AE

C.H.S.

INITIAL: JRP

INITIAL: MaT

STATE OF California)
COUNTY OF Ventura) ss.

The foregoing instrument was acknowledged before me by
The Hartman Family Trust dated July 8, 1986, by Walter E. Hartman
Jr., Trustee, this 9th day of December, 1991.

WITNESS my hand and official seal.

Brenda D. Miller
NOTARY PUBLIC

My Commission Expires:

11-22-93



STATE OF IDAHO)
County of Caribou) ss.

On this 10th day of December, 1991, before me, the undersigned, a Notary
Public in and for said County and State, personally Alfred E. Sorenson and
Colleen H. Sorenson, known or identified to me to be the President and
the Secretary of Box Ranch, Inc., the corporation that executed the same
on behalf of said corporation, and acknowledged to me that such corporation
executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
signature and year in this certificate first above written.

Rona Jean Lepson
NOTARY PUBLIC FOR THE STATE OF IDAHO.
Residing at: Soda Springs, ID
My commission expires: 8/15/97

142644

STATE OF IDAHO } ss
County of Caribou }
I hereby certify that this instrument was filed at the request
of Caribou Title
at 4 o'clock P on this 10 day of
December, 1991 in my office and duly
recorded in Microfilm Records
Rebecca A. Jenkins
Stephanie Lansberry
Ex-Officio Recorder Deputy

9.00 dg.

Notes

11/10/06 I met with Jed Nail who manages the ranch for J.R. Simplot. Jed has worked for Simplot's managing this ranch for about the last year. Jed was also on this ranch working for Mr. Hall in the mid 70's so he has a lot of pre 1987 & pre 1971 knowledge. He took me around the ranch on a 4-wheeler so I could see the points of diversions as well as the irrigated POU.

The ground in the SENE and SWNE and NWSE down towards Crow Creek is very swampy. There is also a portion that has a bog so I've taken that piece out of the irrigated POU.

According to Jed, after Mr. Hartman acquired the property he sold a right away to the County to move the road north of the house because it use to go between the house and out buildings. You can see that change on the 2004 imagery but not the 1992.

Also according to Jed the piece in the 1987 Napp photo that is above the road was dry farmed. It wasn't until after Mr. Hartman purchased the property.

Notes

and he put in a pond in the SWNE^{Sec. 21} (below the new road in 2004 Napp photography) and land lines did he then start to irrigate that piece as well as the piece above the new road (2004 Napp^{CD} photography). In the 1987 photo that green stop above the road was a roping arena.

In the close-up of the pond I pulled the irrigated boundary back from the road because it is steep to the road.

The Crow Creek area is very suby, it's fenced off today.

I used the homestead testimony for ^{Cyrenus} Cyrus Bagley from John S. Heggie to establish the priority date at 1895.

~~The transfer for the ponds '5485 wasn't~~
Transfer 5040 doesn't effect this right.

- Simplot needs to file a transfer to add the storage pond that was added as well as the land irrigated North of the road. ^{CR}

They still use wild flood irrigation so I used 0.03 cfs per acre.

Bratt Arnold
208-456-2682

7501
4186

U. S. LAND OFFICE
BLACKFOOT IDAHO
OCT 8 1926
HOUR 9 A. M.

DEPARTMENT OF THE INTERIOR,

United States Land Office, Blackfoot, Idaho.

037243

AFFIDAVIT ON SHOWING AS TO PREVALENCE OF WATER ON
LANDS APPLIED FOR.

I, Frederick Beyeler of Montpelier, Idaho, who prior hereto made application (Homestead), Serial No. 037243, at the Blackfoot Land Office for the SE¹/₄ NW¹/₄, SW¹/₄, NE¹/₄ SE¹/₄, Sec. 20; S¹/₂ NE¹/₄, Sec. 29; SW¹/₄ NW¹/₄, Section 28, Township 9 South, Range 46 East, B. M., and having been duly notified by the Local Land Office, under date of September 14, 1926, to make corroborated showing as to existence of water on said tract, do under oath make the following statements:

I do solemnly swear that no water exists upon said tract, except that Sage Creek crosses the following subdivisions SE¹/₄ NW¹/₄ and E¹/₂ SW¹/₄, said Section 20; and that Crow Creek crosses SW¹/₄ NE¹/₄, said Section 29; but that the said Sage Creek courses over this land through a deep precipitous canyon, - from which no water can be conducted upon any part of this tract, - furthermore the use of all water in said creek has been, prior to my application, fully appropriated; that in addition to above stated facts, there is absolutely no tilable lands in that part of the land applied for which is crossed by said creek, - for the reason that same is steep, mountainous and abrupt in the extreme. That with respect to said Crow Creek, the said subdivision in Sec. 29, crosses a rough willow patch, and can in no wise be cultivated, - not even to wild hay; that in addition, former appropriations of water in said creek, renders it impossible for this affiant to procure the right to water from this stream for use on said forty.

That as to daily capacity of said streams in gallons, I have no way by which I can form any estimate; but do state that said Sage Creek would flow more than 6 cu. ft. per second of time; and that said Crow Creek would flow more than 8 cu. ft. per second of time.

I do further depose that every part of the tract applied for is fit for and usable only for grazing purposes; and that its inclosure would not interfere in any way with the watering of stock on public range or private lands.

Frederick Beyeler

We, Benoni Wilkes of Montpelier, Idaho, and

James S. Lindsay of Montpelier Idaho
do solemnly swear that we are well acquainted with the above named affiant and the lands described, and fully acquainted with the conditions as to water thereon, and personally know that the statements made by said applicant in the foregoing affidavit are true.

Benoni Wilkes

James S. Lindsay

Subscribed and sworn to before me by each of the above-named three affiants, at my office in Montpelier, Idaho, this 6th day of October, 1926.

Edwin M. McLean

U. S. Commissioner, District of Idaho.

STOCK-RAISING HOMESTEAD

FINAL PROOF

TESTIMONY OF WITNESS

DEPARTMENT OF THE INTERIOR

U. S. LAND OFFICE, Blackfoot Idaho Serial No. 637243
Additional Entry Serial No. _____

The officer before whom this proof is made will see that all answers are complete and responsive to the questions, and that the answers bring out the pertinent facts showing the entryman's compliance, or noncompliance, with the laws under which the land was entered. Neither the entryman nor the witness may be present while the testimony of this witness is being taken.

QUESTION 1. What is your full name, age, and post-office address?

ANSWER. Name, George Raymond Hall; age, 30 years;

P. O. address, Crow Creek Ranch Montpelier Idaho

QUESTION 2. Are you the same person who was mentioned in the published notice as G. Raymond Hall, not S. Raymond Hall
(Officer before whom proof is taken will fill in the name as published.)

ANSWER.

QUESTION 3. How long have you known the claimant in this case and the

land 5 1/2 NW 1/4, SW 1/4, N 1/2 SE 1/4 Sec 20.
3 1/2 NE 1/4 Sec 29. SW 1/4 NW 1/4

Section 28

Township 9 South, Range 46 East Boise Meridian.

the land embraced in Homestead Entry No. 637243, made

at the Blackfoot Idaho Land Office?

ANSWER. I have known claimant 5 years, the land 5 years.

QUESTION 4. (a) Is entryman married? (b) Of whom does entryman's family consist?

ANSWER. (a) Married (b) A wife and six children

QUESTION 5. Is said tract within the limits of an incorporated town, or used in any way for trade or business?

ANSWER. No

QUESTION 6. If this proof is for an additional entry, state whether the entryman has resided upon such additional entry or upon his original entry.

ANSWER. Entryman resided on his original entry.
In the spring of 1915.

QUESTION 7. At what date did entryman establish actual residence on said homestead?

ANSWER. In the spring of 1915.

QUESTION 8. Has entryman, or entryman's family, maintained a residence elsewhere than on this land at any time since residence was thus established?

ANSWER. Yes

QUESTION 9. Have entryman and family ever been absent from the homestead since thus establishing residence thereon? If so, state when, for how long, and for what reason.

ANSWER. They have been away for school
in the winter

QUESTION 10. Considering each residence year as beginning at the date on which actual residence was established, state the number of months during each residence year that entryman actually resided upon the land.

ANSWER. First year, *about 2 months*. Second year, *about 8 months*. Third year, *about 8 months*. Fourth year, *about 8 months*. Fifth year, *about 8 months*.

QUESTION 11. With regard to the land for which this proof is offered, state (a) the kind of soil; (b) contour of the surface, as "level," "rolling," "rough," "hilly," "mountainous," etc.; (c) number of acres which have been cultivated; (d) number of acres not cultivated which might be profitably cultivated; (e) number of acres containing trees of any kind; (f) number of feet of saw timber.

ANSWER. (a) *light brown* (b) *rolling and rough* (c) *none* (d) *none* (e) *6 acres* (f) *none*

QUESTION 12. State the number of acres cultivated and kind of crop planted, each year, and state to what extent the land has been used for grazing.

ANSWER. 19... *It has been pastured every year.*

19...
19...
19...
19...

19...
19...
19...
19...

QUESTION 13 (a). Describe fully and in detail the amount and kind of improvements on the land, stating when same were made and giving the cost of each item, and if proof is offered upon an additional entry under the stock-raising law state definitely which of such improvements are actually upon the additional entry and when they were placed there.

ANSWER.

YEAR CONSTRUCTED	LOCATION OF IMPROVEMENTS	CHARACTER OF IMPROVEMENTS	COST OF MATERIALS	COST OF LABOR	TOTAL COST
1908	SW 1/4 NW 1/4	80 rods of fence	\$24.00	\$8.00	\$32.00
	NW 1/4 SW 1/4	80 rods of fence	24.00	8.00	32.00
	SW 1/4 SE 1/4	160 rods of fence	48.00	16.00	64.00
	SE 1/4 SW 1/4	80 rods of fence	24.00	8.00	32.00
	NW 1/4 SE 1/4	80 rods of fence	30.00	10.00	40.00
	NE 1/4 SE 1/4	80 rods of fence	30.00	10.00	40.00
	NE 1/4 SE 1/4	80 rods of fence	24.00	8.00	32.00
	W 1/4 NE 1/4	120 rods of fence	45.00	15.00	60.00
	SW 1/4 NW 1/4	240 rods of fence	51.00	17.00	68.00
			24.00		

Total No. acres cultivated

QUESTION 13 (b). If any portion of the land has been cultivated, reclaimed by irrigation, cleared of trees or brush, seeded to cultivated grasses, or in any other manner handled so as to increase its productiveness, give full details and cost of such work, stating how many acres were so treated and upon which entry said work was done.

ANSWER. *Not to my knowledge.*

QUESTION 14. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER. *NO. STOCK RAISING HOWEVER*

QUESTION 15. Have you any knowledge or information that claimant has sold or contracted to sell, optioned, mortgaged, or agreed to option or mortgage this land? If so, give full details as to whom, for what purpose, and in what amount.

ANSWER. *no.*

QUESTION 16. Have you personal knowledge, from your own observation, that claimant and his family (if any) actually resided upon and cultivated this land each year in accordance with your above testimony?

ANSWER. *yes.*

QUESTION 17. How many times each year have you seen this land, and the claimant and his family residing thereon; and what other personal knowledge have you upon which your answers are based?

ANSWER. *I live neighbors to him and have seen the land nearly every day and he has lived there all the time since 1925*

QUESTION 18. Are you interested in this claim, or related to the claimant? If so, how?

ANSWER. *no.*

QUESTION 19. Have either the claimant or the other witness been present while you were giving your above testimony?

ANSWER. *no.*

QUESTION 20. Have you any actual knowledge of any statement made by the claimant or the other witness in their testimony in connection with this proof?

ANSWER. *no.*

George Raymond Hall
(Sign plainly, with full Christian name.)

Note.—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. See section 125, United States Criminal Code (below).

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to or by deponent in my presence before deponent affixed signature thereto; that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to before me at my office, in *Tyger Valley Idaho* County, State of *Idaho* land district, this *18* day of *June*, 19*31*.

Soren C. Peterson
U.S. Commissioner
(Official designation of officer.)

UNITED STATES CRIMINAL CODE.

SEC. 125. Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, shall willfully and contrary to such oath state or subscribe any material matter which he does not believe to be true, is guilty of perjury, and shall be fined not more than two thousand dollars and imprisoned not more than five years.

HOMESTEAD PROOF—TESTIMONY OF WITNESS.

John S. Heggie, being called as witness in support of the Homestead entry of *Gregory J. Bagley* for *S. 1/4 NE 1/4, NE 1/4 SE 1/4 Sec. 21, T. 4 N. R. 14 E.* testifies as follows:

Question 1.—What is your name, age, and post-office address?

Answer. *John S. Heggie, age 36, Fairview, Oregon*

Ques. 2.—Are you well acquainted with the claimant in this case and the land embraced in his claim?

Ans. *I am*

Ques. 3.—Is said tract within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?

Ans. *It is not.*

Ques. 4.—State specifically the character of this land—whether it is timber, prairie, grazing, farming, coal, or mineral land.

Ans. *Black loam, grazing and farming.*

Ques. 5.—When did claimant settle upon the homestead and at what date did he establish actual residence thereon?

Ans. *In 1895. The same year he established thereon.*

Ques. 6.—Have claimant and family resided continuously on the homestead since first establishing residence thereon? (If settler is unmarried, state the fact.)

Ans. *They have*

Ques. 7.—For what period or periods has the settler been absent from the land since making settlement, and for what purpose; and if temporarily absent, did claimant's family reside upon and cultivate the land during such absence?

Ans. *Was absent during the winter of 1895. Children attending school. During that time had man for place feeding stock.*

Ques. 8.—How much of the homestead has the settler cultivated and for how many seasons did he raise crops thereon?

Ans. *From 80 to 100 acres. Every season since 1895.*

Ques. 9.—What improvements are on the land and what is their value?

Ans. *House, barn, stack yard, corral, 1 1/2 mile fence 3/4 mile ditch. Value about \$400.00*

Ques. 10.—Are there any indications of coal, salines, or minerals of any kind on the homestead? (If so, describe what they are, and state whether the land is more valuable for agricultural than for mineral purposes.)

Ans. *None. Valuable most for agriculture.*

Ques. 11.—Has the claimant mortgaged, sold, or contracted to sell, any portion of said homestead?

Ans. *Not to my knowledge.*

Ques. 12.—Are you interested in this claim; and do you think the settler has acted in entire good faith in perfecting this entry?

Ans. *I am not. I know he has.*

(Sign plainly with full christian name.)

John S. Heggie

I HEREBY CERTIFY that the foregoing testimony was read to the witness before being subscribed, and was sworn to before me this *26th* day of *January*, 1903, at my office at *Paris*, in *Boise* County, *Idaho*.

[SEE NOTE ON FOURTH PAGE.]

James E. Hart
Clerk of the District Court 6th Judicial District of the State of Idaho in and for Boise County.

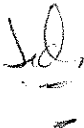
(The testimony of witnesses must be taken at the same time and place, and before the same officer as claimant's final affidavit. The answers must be full and complete to each and every question asked, and officers taking testimony will be expected to make no mistakes in dates, description of land, or otherwise.)

On Nov. 14 Dec. 22 we were sworn 9:00 A.M.

Bird, Cindy

From: Conrad, Vic [Vic.Conrad@simplot.com]
Sent: Wednesday, November 08, 2006 7:47 AM
To: Bird, Cindy
Cc: Facer, Dennis L; Andrews, Verlen; Nield, Jed
Subject: Contact info for Friday, November 10, 2007.

Cindy,
Jed Nield, our ranch manager thinks the best route from Soda Springs is through Montpelier then Smoot, then Afton. When you arrive near Afton, there is a 4-way intersection with a sign that indicates the left hand turn goes to Fairview. Jed will meet you at this intersection at 9:00 am on Friday, November 10. He drives an orange Ford pickup truck and his contact phone numbers are as follows:

 307-887-1119 cell
208-225-0019 phone at the ranch.

As I mentioned, there is no cell phone service once you enter the Crow Creek canyon.

After the tour of the ranch, either Jed or Verlen Andrews will take you to the mine so to show you the water use in the mill and tailings pond no. 1.

11/8/2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

15 W. Center St. Soda Springs, Idaho 83276

Phone: (208) 547-3993 FAX: (208) 547-3939 www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

October 30, 2006

Vic Conrad
JR Simplot
PO Box 27
Boise, ID 83707

FILE

REF: Snake River Basin Adjudication (SRBA)
Claim 24-4017

COPY

Subject: Evidence of Priority
NOE Reply

Dear Mr. Conrad,

After further review of your documents submitted as proof of priority for 24-4017 I have concluded that they have nothing to do with the diversion of Sage Creek claimed under this statutory claim. Evidence to support the priority date is still required.

The documents you submitted "in support of Bagley's Homestead Entry and the testimony of Heggie" DOES NOT support any diversion from Sage Creek. Unless you are stating that Cyrenus J and William Bagley's **intent** to develop and divert water from Crow Creek and Rock Creek never occurred?

Also your reference to the "Hall Ditch" is unsupported. G. Raymond Hall homesteaded all of the land in section 16 and the E1/2NW1/4 and E1/2SW1/4 of section 15 in December of 1937 (maybe 1932) but from your statement the water won't run uphill. Mr. Beyler's 1926 affidavit stated that "no water can be conducted upon any part of this tract" from Sage Creek or Crow Creek. Mr. Hall's testimony confirms that in 1915. In Mr. Beyler's 1956 affidavit that he acquired the Green's ranch that irrigated approximately 30 acres and in 1932 he diverted Sage Creek onto another 20 acres doesn't fall within the same place of use claimed under 24-4017. There are no documents to support your assertion that Bagley is a predecessor in the land interest later acquired by George Raymond Hall. Even if he did acquire some of the Bagley property we don't have any evidence that the Bagley's ever diverted water from Sage Creek on to their ground. Mr Beyler's property may have had some Sage Creek water but it's different property than what is claimed under the Hartman Ranch.

You referenced a ditch coming from Sage Creek in the October 1964 black and white photo during our discussion on the 23rd. After closer review of the photograph I can see a ditch coming from Sage Creek unto Mr. Green and Mr. Beyler's property. But the ditch appears to stop there and so does the cultivated land.

Therefore without further evidence to support the claim on 24-4017 the preliminary recommendation will stand for the director's report. You will have an opportunity to object to the recommendation and provide your documents to the SRBA court at that time. If you have any questions please don't hesitate to give me a call at 547-3993.

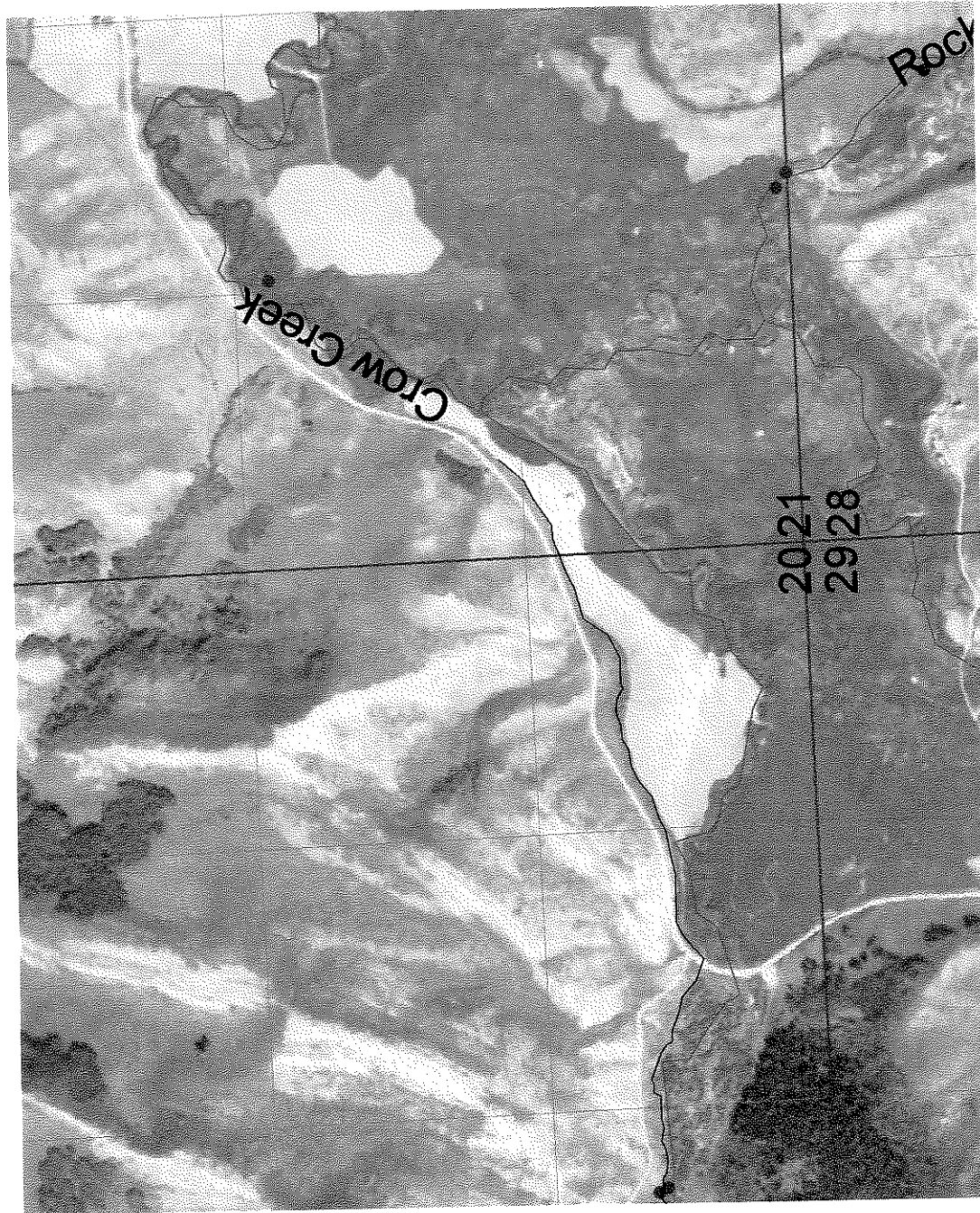
Respectfully,

Cindy E. Bird
Adjudication Bureau

CC: Nicholas Spencer, Attorney for IDWR (via email)
Ray Williams, Paralegal for IDWR. (via email)

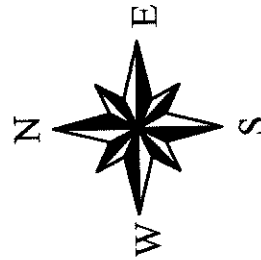
Enclosure(s):

24-4017



Sections
Contour_gps_july05_corrected.shp
Allstr.shp
Stream
Canal or Ditch
Intermittent
Other Hydro
GCDB08S46E GCDB

10-1964 Photograph
Prepared by: Cbird
10-30-06



09/13/2006

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: October 16, 2006

Water Right Number: **24-4017**
J. R. Simplot Company
PO Box 27
Boise, ID 83707; Telephone Number: **208-336-2110**

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

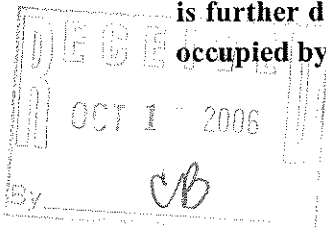
The water right holder disagrees with the IDWR's disallowal of the water right. This is a valid water right. The water right should be recommended with the elements described on the attached Revised Preliminary Recommendation.

2. Describe the changes you wish to make in the proposed recommendation:

The proposed changes are shown on the attached Revised Preliminary Recommendation.

3. Give a brief explanation as to why you disagree with these portions:

Cyrenus J. Bagley received patent no. 4067 from the United States which included the S½NE¼, NE¼SE¼ which are described under the place of use for water right no. 24-4017 (copy of patent no. 4067 attached). In support of Bagley's Homestead Entry application John S. Heggie, provided testimony in support of Bagley's Homestead Entry application pursuant to attached copy of the Homestead Proof – Testimony of Witness sworn by witness on January 26, 1903. In his testimony Heggie describes Bagley's house, barn, stackyards, corral, 1½ mile of fence, and ¾ mile ditch that were developed by Bagley. Given the topography of this location, the referenced ditch is likely the "Hall Ditch" which is the same ditch that is currently in use to transport water from the Sage Creek point of diversion described under water right no. 24-4017 to the described place of use. It is almost certainly the same ditch described in Heggie's testimony since water diverted from any other source would need to flow up-hill to irrigate this land. Bagley is a predecessor in the land interest later acquired by George Raymond Hall whose involvement with this land is further described below. In Heggie's testimony he states that 80 to 100 acres of the land occupied by Bagley was cultivated and crops were raised every season since 1895.



COMPLETED
NOE KNO 10/16

As further evidence of the diversion and use of water during the early part of the 20th century, the copy of the attached Affidavit of Fred Beyler filed on August 23, 1956 in the records of Caribou County, Idaho as instrument no. 38,157 in Book 6 of Miscellaneous records at page 23, refers to "Halls Sage Creek Ditch" which Beyler began using to transport water when he began diverting his water from Sage Creek in 1932. The place of use described under water right no. 24-4017 is part of the ranch formerly known as the "Hall Ranch". The Halls Sage Creek Ditch Beyler refers to is the same ditch used by the Hall Ranch to transport water diverted under water right no. 24-4017 from Sage Creek to irrigate the place of use described under water right no. 24-4017. Consequently, Beyler's affidavit confirms the Hall Ditch was in use and existed before 1932.

The attached copy of the "Stock-Raising Homestead Final Proof Testimony of Witness," signed by George Raymond Hall (of the "Hall Ranch") on June 18, 1931 confirms Hall's residency in this immediate during the "Spring of 1915."

Furthermore, also attached is a copy of the "Affidavit on Showing as to Prevalence of Water on Land Applied For" submitted in connection with the application submitted by Frederick Beyler with the United States of America for Homestead Entry, sworn on October 6, 1926. Beyler's patent application was eventually approved and issued under Patent no. 1052482 which is land adjacent to the "Hall Ranch". In this affidavit Beyler states that "...the use of all water in said creek [Sage Creek, which is the source of water for 24-4017] has been, prior to my application, fully appropriated." This affidavit further confirms the diversion and use of all of the water available from Sage Creek by settlers who were on the land before Beyler and as early as 1926.

_____ I AGREE with this proposed recommendation; no changes need to be made.
J. R. Simplot Company

DATE: Oct. 11, 2006

SIGNATURE: By: _____

Please print your name: Terry T. Uhling, Senior Vice President,
Secretary and General Counsel

-- REVISED --

09/12/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 24-4017

NAME AND ADDRESS: J R SIMPLOT CO
PO BOX 27
BOISE ID 83707

~~Disallowed~~

SOURCE: SAGE CREEK

TRIBUTARY: CROW CREEK

QUANTITY: 1.400 CFS

PRIORITY DATE: ~~09/18/1889~~ March 31, 1895

POINT OF DIVERSION: T09S R46E S20 NESESW Within CARIBOU County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	4/01 11/01	1.400 CFS
PLACE OF USE:	<u>IRRIGATION Within CARIBOU County</u>		20
	T09S R46E S21 SWNE	-23.00	T09S R46E S21 SENE -15.00
	T09S R46E S21 SWNW	6.00	T09S R46E S21 SENW -10.00
			18

~~54~~ ACRES TOTAL

79

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

~~No beneficial use found.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

~~No beneficial use found. This claim is included for a claim based on beneficial use. It is proposed to be disallowed because the state of Montana has not confirmed by State Field examination or by other evidence submitted by the claimant.~~

FRED BEYLER

AFFIDAVIT

FILED: August 23, 1956 at 1:53 P.M.

Instrument No. 38,157

Recorded: Book 6 of Miscellaneous Records, at
Page 23, records of Caribou County, Idaho.

STATE OF IDAHO)
COUNTY OF BEAR LAKE) SS.

FRED BEYLER, being first duly sworn upon oath deposes and says: That he is a citizen of the United States over the age of Sixty five years; That he is the owner of a certain ranch situated at the junction of Sage Creek and Crow Creek Canyons, in Caribou County, Idaho, situated in Sections 20, 21, 28 and 29, in Township 9 South, Range 46 East of the Boise Meridian, comprising approximately 760 acres, of which approximately 120 acres are irrigated, approximately 80 acres being irrigated from Sage Creek and 40 acres from Crow Creek.

That affiant homesteaded 600 acres of the above mentioned ranch and purchased 160 acres thereof, said 160 acres being known as the Stephen Green homestead.

That affiant commenced to homestead the said 600 acres in the year 1914 but prior to that time to-wit in the year 1907 was working on the said Green place and knows of his knowledge that at said time approximately 30 acres thereof was being irrigated from Sage Creek, well defined ditches being visible and in use at said time and affiant has been informed by others that said place had been irrigated for several years prior to said year 1907.

That since the year 1914 when affiant commenced to homestead said ranch as above stated, he has increased the irrigated portion of same, particularly in the year 1930 at which time affiant built a diversion ditch from the North side of Crow Creek and conveyed water therefrom on to approximately 40 acres of said land. That in the year 1932 affiant diverted from Sage Creek water through what is known as Halls Sage Creek ditch which has been constantly used since said time in the irrigation of 20 additional acres of said land.

That in the year 1919 affiant diverted from Crow Creek on the South side thereof through what is known as the Hall and Beyler Ditch water for the irrigation of approximately 30 acres of said land, and has continuously irrigated 30 acres of said land from said source ever since said time with the exceptions of the years 1931 and 1932, and at the present time there is now irrigated on said ranch a total of approximately 120 acres.

Fred Beyler

Subscribed and sworn to before me this 12th day of July, 1956.

(Seal)

Albert E. Leeright
Notary Public for Idaho
Residing at Montpelier, Idaho
My Commission Expires March 9, 1957

THE UNITED STATES OF AMERICA

To all to whom these Presents shall come, Greeting:

Whereas, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Blackfoot Idaho

whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To secure Homesteads to actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Cyprian J. Bagley

has been established and duly consummated, in conformity to law, for the South half of the North East Quarter, and the North East Quarter, of the South East Quarter, of Section twenty one and the South West Quarter, of the North West Quarter, of Section twenty two in Township - nine South of Range forty-six East of Boise Meridian in Idaho, containing one hundred and sixty acres

according to the Official Plat of the Survey of said Land, returned to the General Land Office by the Surveyor General.

Now know ye that there is, therefore, granted by the United States unto the said Cyprian J. Bagley the tract of Land above described. To have and to hold the said tract of Land with the appurtenances thereof, unto the said Cyprian J. Bagley and to his heirs and assigns forever, subject to any water and mineral rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law, and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof, I, Theodore Roosevelt, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the City of Washington, the eighth day of April, in the year of our Lord one thousand nine hundred and four, and of the Independence of the United States the one hundred and twenty-eight

By the President,

L. M. Meade Secretary.

C. C. Brush Recorder of the General Land Office.

Notes

4-6-06 Sent Vic Conrad a letter to remind him that we still need evidence to support priority date. CB

4-10-06 Vic Conrad called to let me know that he's still looking and is working on the evidence.

4-23-06 Received Notice of Change of Ownership
SL (in file 24-4015)

9-12-06 Disallowed for lack of evidence of priority.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

OK
JC
8/18/06

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
24-4015	A24-4015	☒			
24-4016	A24-4016	☐			
24-4017	A24-4017	☐			
	A24-10689	☐			
		☐			

Ownership
Change
Needed
check
A24-4015

2. The following **REQUIRED** information must be submitted with this form:

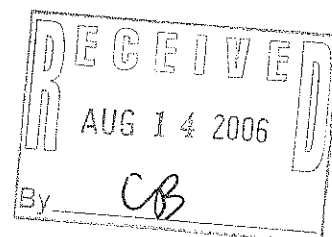
- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

Please See the Attached Warranty Deed

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) TitleOne Exchange Company
1101 West River Street, Ste. 201, Boise, ID 83707
4. New Owner/Claimant(s) J. R. Simplot Company
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address PO Box 27
- City, State and ZIP Code Boise, ID 83707
- New Telephone Number (208) 336-2110
5. Date you acquired the property July 26, 2006



6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) By: J. R. Simplot Company ✓
(include title if applicable) Gray Young, Associate General Counsel and Assistant Secretary

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____	Date _____	Fee _____
Receipted by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____ Date _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

15 West Center Street, Soda Springs, ID 83276

Phone: (208) 547-3993 Fax: (208) 547-3939 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 6, 2006

Vic Conrad
JR Simplot Company
PO BOX 27
Boise, ID 83707

REF: 24-4015, 24-4016, 24-4017 & 24-10689

Subject: Evidence of Priority

RESPONSE DATE: APRIL 20, 2006

Dear Vic,

I haven't heard from you since January 27, 2006. Without the proper documentation to support the evidence of priority on the above referenced claims. I need to hear from you by the above response date.

If you have any questions please feel free to give me a call at 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau



State of Idaho

DEPARTMENT OF WATER RESOURCES

15 West Center Street, Soda Springs, ID 83276

Phone: (208) 547-3993 Fax: (208) 547-3939 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 27, 2006

VIC CONRAD
JR SIMPLOT COMPANY
PO BOX 27
BOISE, ID 83707

REF: HARTMAN RANCH
Snake River Basin Adjudication (SRBA) claims
24-4015, 24-4016, 24-4017 & 24-10689

SUBJECT: EVIDENCE OF PRIORITY

Dear Vic,

I had a chance to talk with our legal department in Boise about our discussion last week on the "Notice of Water Right" located in files 24-4015, 24-4016 and 24-4017. The priority date under 24-4015 and 24-4016 of 1/26/1903 is correct for a Posted Notice. If the claims were amended to claim a priority date earlier based on the statement in the notice then the claim would be a beneficial use claim and would require additional evidence to prove that the ditch was used to irrigate the property. The completion of the ditch doesn't automatically establish that the water was used for irrigation. It could have been used for domestic or stock. The "Notice of Water Right" can be used as the initial evidence for a Posted Notice that they had the "intent" to irrigate the property under the notice. The intent discussed in the notice will need to be converted into them beneficially using the water.

The "Notice of Water Right" for Isaac Nelson doesn't pertain to the place of use claimed by the Hartman's. We got a copy of the homestead plat and according to the plat Isaac Wilson and/or Elizabeth Wilson homesteaded land in sections 8 and 5 within the same township and range. We do not have any evidence to support an accomplished change in place of use. So claim 24-4017 doesn't have any evidence to support the priority date and could be disallowed if no evidence is supplied. Claim 24-10689 was filed as a beneficial use right and also requires evidence to support the priority date claimed.

The "Notice of Water Right" does not cover any of the land claimed in section 15 and the only land it covers in section 22 is the land in the SWNW. Additional information will need to be provided to us for the additional land claimed that is not covered under the Notice.

The bottom line is that without some additional evidence on the Hartman claims to support the priority dates the claims will be recommended to the SRBA court as **disallowed**. As I stated during our conversation we are running out of time and may be forced into disallowing the claims because of a lack of evidence. This needs to be taken care of as soon as possible if the Hartman's want to retain water rights on their ranch. If you have any additional questions please don't hesitate to call.

Respectfully,

Cindy E. Bird
Adjudication Bureau

Cc: Hartman Ranch