

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: **24-4016**
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:

As evidence in support of the priority date claimed, attached is a copy of the Notice of Water Right dated January 26, 1903. This Notice confirms that the ditch used to transport water diverted from Rock Creek pursuant to water right number 24-4016 was, "...in actual use each and every season since the year 1894."

In support of the changes shown on the attached Revised Preliminary Recommendation, enclosed is a copy of the IDWR's approval to water right transfer no. 5040. The water right elements as described on the attached Revised Preliminary Recommendation were described on the attached transfer and approved by the IDWR on October 10, 1997.

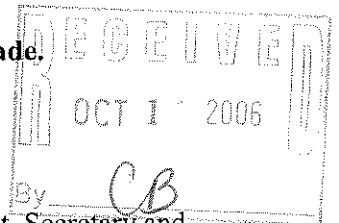
_____ I AGREE with this proposed recommendation; no changes need to be made.

J. R. Simplot Company

DATE: Oct. 11, 2006

SIGNATURE: By: _____

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



COMPLETED
NOV 15 2006

- REVISED -

09/12/2006

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

RIGHT NUMBER: 24-4016
NAME AND ADDRESS: J R SIMPLOT CO
PO BOX 27
BOISE ID 83707

~~Disallowed~~

SOURCE: ROCK CREEK

TRIBUTARY: CROW CREEK

QUANTITY: 5.000 CFS

PRIORITY DATE: 01/26/1903

POINT OF DIVERSION:

T09S R46E S28 SENENW 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	4.72 cfs (Irrigation)
	Recreation	4/01 11/01	5.000 CFS
PLACE OF USE:	IRRIGATION Within CARIBOU County		0.28 cfs (Recreation)
	T09S R46E S21 NESW	29.00	T09S R46E S21 SESW 30.00
	T09S R46E S21 NESE	35.00	T09S R46E S21 NWSE 32.00
	T09S R46E S22 SWNE	2.00	T09S R46E S22 SWNW 3.4
	T09S R46E S22 SENW	2.00	
		31.00	
		146.2 ACRES TOTAL	
		165.4	

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 is included for a claim based on beneficial use that is proposed to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.~~

Entry No. 2

Sheet No. 4

William Bagley and Cyrenus J. Bagley, ——— NOTICE OF WATER RIGHT. ———

Dated: January 26, 1903.

Claimants,

To:

Recorded: Book 1 of Water Locations, page 135. Transcribed from Book 2 of Water Locations, page 201, records of Bannock County, Idaho.

Whom It May Concern.

State of Idaho,)
County of Bear Lake,) SS.

To all concerned Notice is Hereby Given:

1st. That we, William Bagley and Cyrenus J. Bagley of Fairview in the State of Wyoming hereby claim the use of all the waters of what is commonly known as "Rock Creek" to the extent of 250 miners inches.

2nd. That it is intended to divert said water at or near the Point at or near the point where a copy of this notice is posted and more definitely described as follows, to-wit: At a point about forty rods South from the North East corner of the North West Quarter of Section 28 in Township 9 South of Range 46 East of the Boise Meridian, in the State of Idaho.

3rd. That the purpose for which said water is intended to be used is irrigation and domestic. The place of intended use is the irrigation of the following described lands, to-wit: SE. 1/4 N.W. 1/4 E. 1/2 SW. 1/4 NW. 1/4 S.E. 1/4 Sec. 21 in Twp. 9 S.R. 46 E.B.M. The S. 1/2 (N.E. 1/4) N.E. 1/4 S.E. 1/4 Sec. 21 S.W. 1/4 N.W. 1/4 of Sec. 22 in Township 9 South of Range 46 E. B. M.

4th. It is intended to divert said water by means of one main ditch three feet wide and two feet deep and other smaller and lateral ditches to convey the water on various parts of the land. The general course of the ditch is in a North Westerly direction. The length of the ditch will be about 40 rods. The said ditch has been completed and in actual use each and every season since the year 1894.

Witness our hands at Paris, Idaho, this 26th day of January, A.D. 1903.

Witness: William J. Jensen.

William Bagley
Cyrenus J. Bagley.

ACKNOWLEDGED: In the State of Wyoming, County of Uinta on the 29th day of January 1903 by William Bagley and Cyrenus J. Bagley before William J. Jensen, a Notary Public. Commission expires December 26, 1904. SEAL.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5040
WATER RIGHT NO. 24-04016

This is to certify that: **HARTMAN RANCH LLC**
PO BOX 25177
JACKSON WY 83001

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	4.72 CFS	578.9 AF
RECREATION	04/15 to 10/15	0.28 CFS	44.1 AF
Totals		5.00 CFS	623.0 AF

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
ROCK CREEK	CROW CREEK

Priority: 01/26/1903

LOCATION OF POINT(S) OF DIVERSION: NENW , Sec. 28, Township 09S, Range 46E
CARIBOU County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
09S	46E	21	NESW 29.0	SESW 30.0	NESE 38.0	
			NWSE 32.0			129.0
	22		SWNE 2.0	SWNW 3.4	SENW 31.0	36.4
Total number of acres irrigated:						165.4

PLACE OF USE: RECREATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>
09S	46E	21
		22
		NESW
		SWNW

CONDITIONS OF APPROVAL AND REMARKS

1. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
2. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.

SCANNED

MAY 16 2003

MICROFILMED

OCT 22 1997

TRANSFER NO. 5040
WATER RIGHT NO. 24-04016

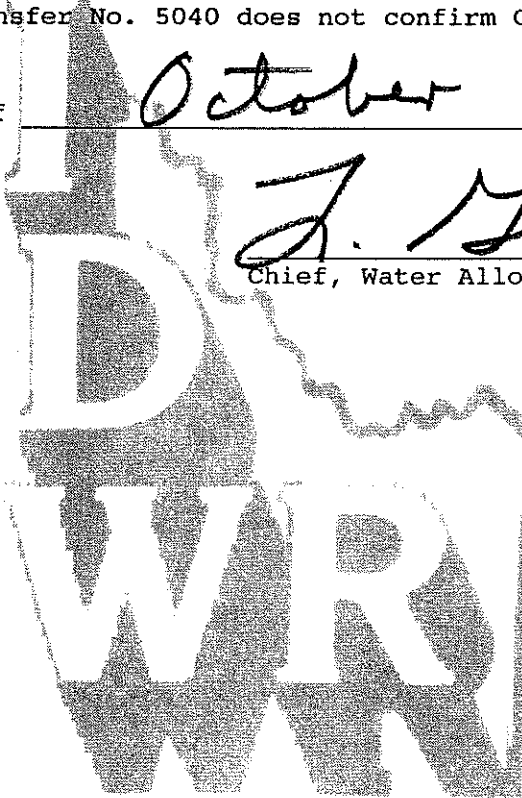
CONDITIONS OF APPROVAL AND REMARKS

3. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
4. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
5. Approval of Transfer No. 5040 does not confirm Claimed Right No. 24-04016.

Dated this 10 day of

10 October, 1997

J. Glen Saxton
Chief, Water Allocation Bureau



MICROFILMED

OCT 22 1997