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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

A. Subcase 24-10764

Case No. 35976

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Kevin Toner & Yodon Thonden

Address: 136 Madison Ave., 3rd Floor

New York, NY 10016

Daytime Phone: 212-842-8903

Name & Address of Attorney, if any:

Kent W. Foster

Holden, Kidwell, Hahn & Crapo, PLLC

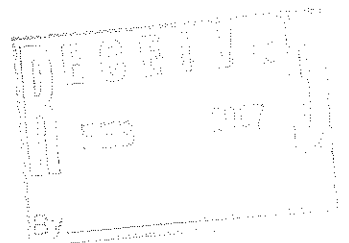
PO Box 50130, Idaho Falls, ID 83405

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Kevin Toner & Yodon Thonden

Address: 136 Madison Ave., 3rd Floor

New York, NY 10016



D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: Unnamed Spring Tributary to Sage Creek *No spring filed on*
3. ☒ **Quantity**
Should be: 1.5 cfs
4. ☒ **Priority Date**
Should be: May 1, 1930
5. ☒ **Points of Diversion**
Should be: SESE, Sec. 20, T9S., R46E.
6. ☐ **Instream Flow Description**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: Irrigation
8. ☒ **Period of Year**
Should be: 04/01 to 10/31
9. ☒ **Place of Use**
Should be: T9S., R46E., Sec. 20, SESE (5), Sec. 21, SWSW (12), Sec. 28, NWNW (6)
10. **I object because:**
☐ This water right should not exist.
☒ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** Claimants recently acquired this land and hired a ranch manager who has now been able to obtain information from the former owners and irrigators of the property.

VERIFICATION (Must be Completed)

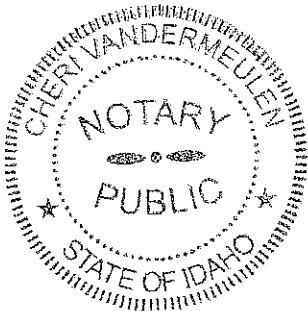
State of Idaho)
)ss.
County of Bonneville)

Kent W. Foster, duly sworn, upon oath, deposes and says that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



Kent W. Foster

Subscribed and sworn to before me this 2nd day of January, 2007.





Notary Public for Idaho
Residing at: Idaho Falls, ID
My Commission Expires: July 7, 2009

INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of January, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

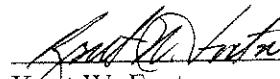
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environmental and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Kent W. Foster

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11/14/2006

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

RIGHT NUMBER: 24-10764

NAME AND ADDRESS: KEVIN TONER
136 MADISON AVE 3RD FLOOR
NEW YORK NY 10016

YODON THONDEN
136 MADISON AVE 3RD FLOOR
NEW YORK NY 10016

DISALLOWED

SOURCE: CROW CREEK

TRIBUTARY: SALT RIVER

QUANTITY: 1.500 CFS

PRIORITY DATE: 05/01/1914

POINT OF DIVERSION:

T09S R46E S29 SWNE Within CARIBOU County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.500 CFS

PLACE OF USE: IRRIGATION in CARIBOU County

T09S R46E S29	NENE	20.00	T09S R46E S29	SENE	25.00
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45 ACRES TOTAL

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.

This right is a split from former right 24-4021.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 24-10764
Date Received: 10/26/2005
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

KEVIN TONER Phone: (212) 842-8903
136 MADISON AVE 3RD FLOOR
NEW YORK NY USA 10016

YODON THONDEN Phone: (212) 842-8903
136 MADISON AVE 3RD FLOOR
NEW YORK NY USA 10016

2. Date of Priority: 05/01/1914

3. Source: CROW CREEK Trib. to: SALT RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
09S	46E	29	SW NE	CARIBOU	

5. Description of diverting works:

HEADGATE AND DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	1.5	

7. Total Quantity Appropriated is:
1.5 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
09S	46E	29	NE	NE	IRRIGATION	20
			SE	NE	IRRIGATION	25
					Section Acres	45
					Total Acres	45

11. Place of use in counties: CARIBOU

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

This right is a split from former right 24-4021 .

15. Basis of Claim: Beneficial Use

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 24-4021
Date Received: 10/26/2005
Receipt No: E031387
Received By: BPJ

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

KEVIN TONER Phone: (917) 749-5796

136 MADISON AVE
3RD FLOOR
NEW YORK NY USA 10016

YODON THONDEN Phone: (917) 749-5796

136 MADISON AVE
3RD FLOOR
NEW YORK NY USA 10016

2. Date of Priority: 05/01/1914

3. Source: CROW CREEK Trib. to: SALT RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
09S	46E	29	SW NE	CARIBOU	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	1.5	

7. Total Quantity Appropriated is:
1.5 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
09S	46E	29	NE	NE	IRRIGATION	20
			SE	NE	IRRIGATION	25
					Section Acres	45
					Total Acres	45

11. Place of use in counties: CARIBOU

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Statutory Claim

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 24-4021

Date Received _____

Receipt Number ED 31387

**NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s) Kevin Toner and Yodon Thonden Phone (917) 749-5796

Mailing Address Aristeia Capital, 136 Madison Ave, 3rd Fl. Zip 10016
New York, NY 10016

2. Date of Priority (Only (1) per claim) May 1, 1914

3. Source of water supply (a) Crow Creek

which is tributary to (b) Salt River

4.a. Location of existing point of diversion is:

Township 9S Range 46E Section 29, 1/4 of SW 1/4 of NE 1/4, Govt. Lot _____,
County of CARIBOU

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, 1/4 of 1/4 of 1/4, Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, 1/4 of 1/4 of 1/4 Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged
and the depth of each well. Headgate and ditches

6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 4/1 to 11/1 amount 1.5 or _____

7. Total quantity claimed (a) 1.5 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of
livestock Etc.) _____

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
9S	46E	29	20			25													45

Total number of acres irrigated 45

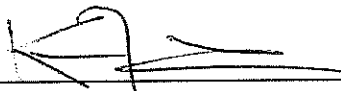
11. In which county(ies) are lands listed above as place of use located? Caribou
12. Do you own the property listed above as place of use? Yes X No
If your answer is No, describe in Remarks below the authority you have to claim this water right.
13. Describe any other water rights used at the same place and for the same purposes as described above.
24-4018 and 24-4022 or None ()

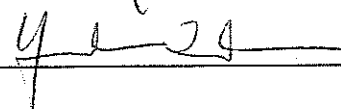
14. Remarks:

15. Basis of Claim (Check one) Beneficial Use Posted Notice Permit Decree License
If applicable provide IDWR Water Right Number
Court Case Number Decree Date
Plaintiff vs Defendant

16. Signature(s)

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s)  Date 10/20/05

 Date 10/20/05

For Organizations: I do solemnly swear or affirm that I am of (Title)

 , that I have signed the foregoing document in the space below as (Organization)

 of and that the statements contained in the (Title) (Organization) foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of ~~Idaho~~ NY)
County of NY) SS.

Subscribed and sworn (or affirmed) before me this 20 day of Oct, 2005.

RANDY FRANCIS
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01FR5966207
QUALIFIED IN BRONX COUNTY
COMMISSION EXPIRES SEPT. 23, 2006

Notary Public [Signature]
Residing at _____
My Commission Expires _____

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____
Address _____
Date _____