



State of Idaho

DEPARTMENT OF WATER RESOURCES

15 W Center Street, Soda Springs, Idaho 83276-1575

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

C.L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

March 19, 2007

Julie Murphy
Snake River Basin Adjudication
253 3rd Avenue North
Twin Falls, ID 83301

REF: Contested claim in basin 24

Subject: Original Claims for 24-4019, 24-4021, 24-4064 and 24-4068B

Dear Ms. Murphy,

Enclosed are the original Snake River Basin Adjudication claims for the above referenced rights. Claim 24-4019 was split into claims 24-10750 and 24-10751. Claim 24-4021 was also split into claims 24-10763 and 24-10764. Which from your list you need the originals for 24-10750, 24-10763 and 24-10764. I hope this clears up the confusion. If you have any questions please don't hesitate to call.

Respectfully,

Cindy E. Bird
Adjudication Bureau

Enclosures: Original Claims 24-4019, 24-4021, 24-4064 and 24-4068B

CC: Ray Williams (w/o attachments)

Notes

9/1/06 According to the statutory claim this right and 24-4018 irrigates land ~~so~~ south of Crow crk. I don't see irrigation on this land in 1957 photo or a ditch. I can't tell on the 1976 photo where the ditch is and it doesn't look irrigated.

Recommending this right and 24-4018 as disallowed, pending additional information.

~~Byge~~ also according to the TOPO map it's a hill south of Crow Creek in the NE NE of Sec. 29. Statutory claim 24-4022 was filed for irrigation north of Crow crk.

Based on the 1957 photo, the statutory claim filed in 1979, I didn't find B.U. prior to May, 20, 1971.
claim disallowed CB.

11/1/06 Rec'd NOE.

11/2/06 Sent letter requesting evidence.

2/26/07 See 24-4018 for Kent Foster's Response and affidavits. CB

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 24-4021 V1

WATER RIGHT NUMBER: 24-4021 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	KEVIN TONER 136 MADISON AVE 3RD FLOOR NEW YORK, NY 10016 (212) 842-8903
Current Owner	YODON THONDEN 136 MADISON AVE 3RD FLOOR NEW YORK, NY 10016 (212) 842-8903
Original Owner	G HARVEY KENNINGTON PO BOX 98 FAIRVIEW, WY 83119 (307)225-3451
Previous Owner	GENEVA LAND & CATTLE LLC 329 S WOODRUFF IDAHO FALLS, ID 83401 (208)227-1451

Priority Date: 05/01/1987

Basis: Beneficial Use

Status: Parent

<u>Source</u>	<u>Tributary</u>
CROW CREEK	SALT RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 11/01	1.500 CFS	
	<u>Total Diversion:</u>	1.500 CFS	

Location of Point(s) of Diversion

CROW CREEK	SW1/4NE1/4	Sec. 29, Twp 09S, Rge 46E, B.M.
CARIBOU County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	46E	29	20.0				25.0											45.0	

Total Acres: 45

Conditions of Approval:

1. P22 Split right: See Right Nos. 24-10763 and 24-10764.

November 9, 2006

Kevin Toner
Yodon Thonden
136 Madison Ave 3rd Floor
New York NY 10016

RE: Notice of Claim

Dear Claimant:

The Department has changed the identification number for the Notice of Claim 24-4021. The new number is A24-10764.

A copy your Notice of Claim is enclosed for your records.

Respectfully submitted,

Katy Jackson
Office Specialist 1

Enclosure

November 9, 2006

KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

RE: Notice of Claim

Dear Claimant:

The Department has changed the identification number for the Notice of Claim 24-4021. The new number is A24-10763. The claim number 24-4021 had already been claimed by Kevin Toner (24-10764).

A copy of both Mr. Porter and Mr. Toner's Notice of Claim are enclosed for your records.

Respectfully submitted,

Katy Jackson
Office Specialist 1

Enclosure

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:

Water right number: 24-4021

KEVIN TONER
136 MADISON AVE 3RD FLOOR

NEW YORK NY 10016
Telephone Number: (212) 842-8903

YODON THONDEN
136 MADISON AVE 3RD FLOOR

NEW YORK NY 10016
Telephone Number: (212) 842-8903

DISALLOWED

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

I DISAGREE WITH THE FACT THIS CLAIM WAS
DISALLOWED.

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

SOME OR ALL OF THIS CLAIM SHOULD BE
ALLOWED. THERE IS A BENEFICIAL USE
IN BOTH PONS.

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

SEE ABOVE.
ON THE NEW 20 ACRES, RIGHT 4022 ALSO APPLIES
HOWEVER, MULTIPLE RIGHTS CAN BE RECOMMENDED

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

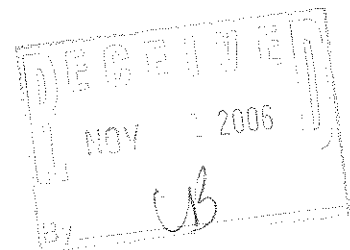
DATE: 10/30/2006 SIGNATURE:

Please print your name:

KEVIN TONER

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

WITH THE STIPULATION THAT NO MORE
THAN 102 CFS P/A BE APPLIED





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

October 27, 2005

Scott P. Eskelson
Martin & Eskelson, PLLC
P.O. Box 3189
Idaho Falls, ID 83403-3189

REF: Kevin Toner

Subject: Snake River Basin Adjudication (SRBA)
Claim 24-4021 and receipt

Dear Scott,

I'm sending you the receipt for SRBA claim 24-4021 and a copy of the claim as entered into the database. If you have any questions please feel free to contact me at 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau

Enclosure: Notice of Claim 24-4021
Receipt E031387

Idaho Department of Water Resources Receipt

Receipt ID E031387

Payment Amount Date Received Region Status
Payment Type Check Number

Payer
Comment

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$45.00	ADJUDICATION FILING FEE	0337	43503	1155	


Signature Line (Dept. Representative)

Law Offices of
MARTIN & ESKELSON, PLLC

Stephen E. Martin, Email: semartin@onewest.net
Scott P. Eskelson, Email: seskelson@onewest.net

P.O. BOX 3189
IDAHO FALLS, ID 83403-3189
PHONE: (208) 523-6644
FAX: (208) 522-0791

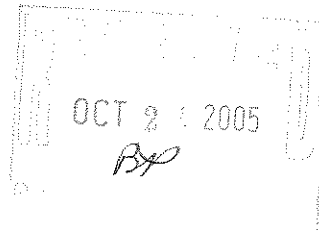
OFFICES:
425 S. HOLMES
IDAHO FALLS, ID 83401

October 21, 2005

Cindy Bird
Idaho Department of Water Resources
15 West Center Street
Soda Springs, ID 83276

Re: Kevin Toner

Dear Ms. Bird:



I am writing in response to your earlier letter of September 28, 2005. Per our conversation, you had provided a response date extension to October 21st. Since I am mailing this today, I believe we are filing on a timely basis.

Enclosed will be the following:

1. An additional fee of \$45.00 as we discussed.
2. Notice of Claim to a Water Right for Right No. 24-4021.
3. Notice of Change of Water Right Ownership for Right No.'s 24-4000, 24-4018 and 24-4022.
4. Amended Notice of Claim to a Water Right Acquired under State Law for Right No. 24-4018.
5. A copy of a preliminary plat map which shows thereon the property acquired by Mr. Toner and Ms. Thondon.

Should you need any further information, I would suggest you contact me. I think in that manner I will be able to respond more than having correspondence go clear to New

Cindy Bird
October 21, 2005
Page 2

York and then asking Mr. Toner to contact me. I will, of course, keep Mr. Toner advised as my client.

Again, my thanks for my cooperation and courtesies extended thus far.

Very truly yours,


Scott P. Eskelson

Enclosures

cc: Kevin Toner (via e-mail)

S:\Joyce'sMyFiles\SPE-Clients\4625\CrowCreekProperty\05Oct21-IDWaterDept.wpd

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that E. NARVEY KENNINGTON
(Name of Claimant)
P.O. Box 98 FAIRVIEW NY 13119 Telephone No. 225-3451
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) MAY 1, 1914

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
CROW CREEK tributary to SALT RIVER.
- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

claimed:		(Both dates inclusive)	
(cfs, gpd, AFA)	(Domestic, Irrigation, Stock, Etc.)	(Mo., Day)	(Mo., Day)
Quantity <u>1.5 cfs</u>	Use <u>IRRIGATION</u>	Period of Use From <u>April</u>	To <u>Nov</u>
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____

- (4) 1.5 cfs TOTAL QUANTITY USED.
(cfs, gpd, AFA)
- (5) A) Point of diversion: (Location of point where water is diverted from its source)
SW 1/4 NE 1/4, Sec. 29 Twp. 9S Rge. 46E B.M., County of CARIBOU
Additional points of diversion: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change.

HEADGATE WITH OPEN DITCH TO FLOOD IRRIGATION.

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

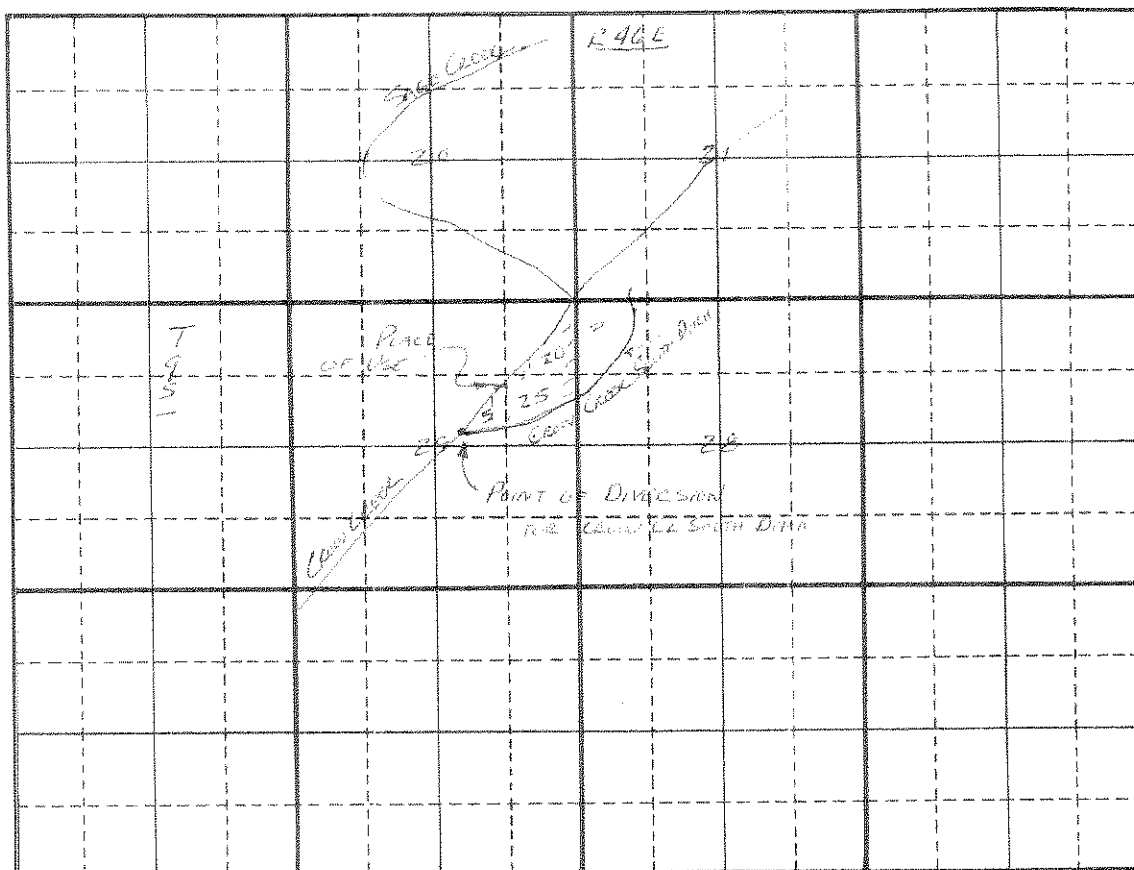
No. of acres 50

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

NOTE: Include here the type and number of stock watered: _____

- (7) If you are claiming water as a member of an organization, list name of organization: _____

(8) Remarks Open Name Creek Creek South



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Bonneville) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 11th day of May

Harmon Remington
(Claimant)

William W. Wray
Notary Public
Residing at Idaho Falls, Id.

My commission expires 6/15/81

FOR DEPARTMENT USE ONLY

Received by <u>dh</u>	Date <u>5-11-79</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>dh</u>	Date <u>5-11-79</u>		claimant by:	
\$20.00 fee received by <u>dh</u>	Date <u>5-11-79</u>	#11872		
Published in <u>Caribou County Sun</u>				
Dates <u>May 24 & 31, 1979</u>				