

Notes

8/25/06 add 24-4020 night CB

9/1/06 The 1957 imagery doesn't show irrigation but the 1976 Orthoquad does show irrigation after 1971? Beus's affidavit states it's been the same as 1968. Moving priority to 1968. Commendation complete

11/1/06 rec'd NOE reply.

11/2/06 Sent letter requesting evidence. See 24-408 for letter.

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

09/01/2006

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: 24-10753

YODON THONDEN
136 MADISON AVE 3RD FLOOR

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

KEVIN IONER
136 MADISON AVE 3RD FLOOR

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

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

1 PRIORITY DATE - GOOD EVIDENCE WAS PRESENTED
THAT THE ~~5/01/1902~~ PRIORITY DATE IS CORRECT.
5/01/1902 2 QUANTITY

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

1 5/01/1902 PRIORITY.
2 24 ACRES INSTEAD OF 9 IRRIGATED
HIGHER QUANTITY.

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

1 GOOD EVIDENCE FOR 1902 PRIORITY.
2 EVEN THOUGH THE EXTRA 14 ACRES ARE

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

DATE: 10/30/06 SIGNATURE: 

Please print your name: KEVIN IONER

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

COVERED BY RIGHT 10751, BOTH SHOULD BE
APPROVED WITH A MAXIMUM AGGREGATE
CONDITION OF .02 CFS P/A.

RECEIVED
OCT 12 2006
CB

Analysis:

8/30/06 C. Buid.

- T95 R46E Sec 21.

Kevin Toner / Yodon Thonden purchased W $\frac{1}{2}$ SW.

- NO water rights go to this ground. POU Comparison Report.

- or no claims have been filed on the W $\frac{1}{2}$ SW. Bryce however has recommended irrigation in these QQ.

- Can't recommend without an amended claim and proof that the change occurred prior to Nov, 1987.

Joel Porter / Kevin Toner Analysis 8/29/06

24-4019 and 24-4020 was split due to ownership change for Joel Porter (purchased West portion of Ranch) and Kevin Toner (Purchased east Portion of Ranch).

(NORTH) 24-4019 $\left\{ \begin{array}{l} 10750 \text{ Joel Porter } 0.6 \\ 5-1-1932 \\ 10751 \text{ Kevin Toner } 0.6 \end{array} \right.$
1932 1.2 cfs
40 AC.
0.03 cfs/AC

(SOUTH) 24-4020 $\left\{ \begin{array}{l} 10752 \text{ Joel Porter } 0.96 \\ 5-1-1902 \\ 10753 \text{ Kevin Toner } 0.64 \end{array} \right.$
1968 1.6 cfs
60 AC.
0.026 cfs/AC

Statutory Claims: 24-4019 & 24-4020 was filed May 11th, 1979 by G. Harvey Kennington on Sage crk.
24-4019 irrigates ground North of Sage crk.
24-4020 irrigates ground South of Sage crk.

-POD'S: Under the original statutory claims the pod was listed in the NE SW of Section 20, T9S R46E. It doesn't appear that Sage creek has even gone through this QQ. I don't feel there has been a change in POD. I think we are just better able to determine the location today. But I will add the C03 Remark to note the difference.

POU: In the 1957 imagery the ground South of the creek doesn't appear to be irrigated.

In the 1976 imagery it does show irrigation. In Oct, 2005 J. Robert Beus signed an affidavit that the irrigation is the same today as it was in 1968.

Therefore, I'm advancing the priority date for the land South of Sage Crk. to 1968.

The ditches are also very apparent in the 1976 imagery where they are not in the 1957 photo.

The SWSE of Section 20 was homesteaded by Stephen Green.

In Mr. Fred Beyler's affidavit made Aug 23, 1956.

He states that about 30 acres on the Green place was irrigated by Sage crk. From the imagery that appears to be what is North of Sage crk.

Then in the 1930's the irrigation was expanded on Sage crk. The imagery doesn't support this statement.

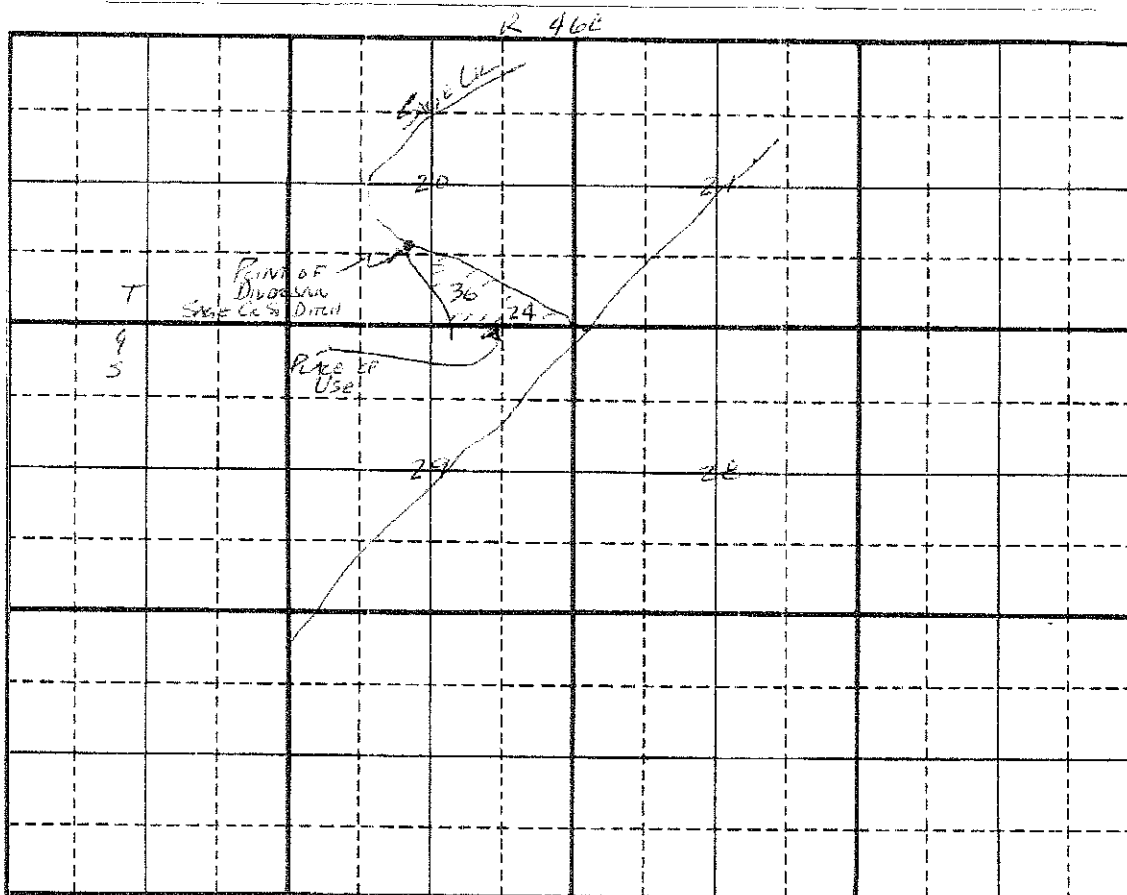
Mr. Beyler's affidavit isn't clear what ground he's referring to as being irrigated.

- According to the assessor's office. H. Harvey Kennington Geneva Cattle. has no irrigated ground. They have some meadow ground, and a lot of dry grazing. (Parcel 21360)

Type	WR #	Owner	Source	TRS	NENE	NWNE	SWNE	SENE	NESE	NWSE	SWSE	SESE	Total
Claim	24 4022	KEVIN TONER, YODON THONDEN,	CROW CREEK	09S46E20								20	20
Claim	24 10753	KEVIN TONER, YODON THONDEN,	SAGE CREEK	09S46E20								24	24
Claim	24 10751	KEVIN TONER, YODON THONDEN,	SAGE CREEK	09S46E20					2			18	20
Claim	24 10752	JOEL PORTER,	SAGE CREEK	09S46E20							36		36
Claim	24 10750	JOEL PORTER,	SAGE CREEK	09S46E20						18	2		20
Right	24 4019	G HARVEY KENNINGTON,	SAGE CREEK	09S46E20					2	18	2	18	40
Right	24 4020	G HARVEY KENNINGTON,	SAGE CREEK	09S46E20							36	24	60
Right	24 4022	G HARVEY KENNINGTON,	CROW CREEK	09S46E20								20	20
Claim	24 4022	KEVIN TONER, YODON THONDEN,	CROW CREEK	09S46E29	20								20
Claim	24 4018	KEVIN TONER, YODON THONDEN,	CROW CREEK	09S46E29	20		5	20					45
Claim	24 4021	KEVIN TONER, YODON THONDEN,	CROW CREEK	09S46E29	20			25					45
Right	24 4022	G HARVEY KENNINGTON,	CROW CREEK	09S46E29	20								20
Right	24 4021	G HARVEY KENNINGTON,	CROW CREEK	09S46E29	20		5	25					50

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

(8) Remarks DITCH IS NAMED SAGE CREEK DITCH



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 Donnerville) 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

G. Henry Huntington
(Claimant)

19 79

William Wray
Notary Public

Residing at Idaho Falls, Id

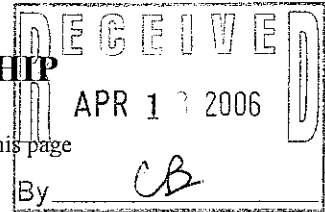
My commission expires 6/15/81

FOR DEPARTMENT USE ONLY

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

OK
JC
8/2/06

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



Please print or type. Attach pages with additional information. Instructions are on the back of this page.
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
OK 24-4018					
OK 24-4019		✓			
OK 24-4020		✓			
OK 24-4022					

RECEIVED

APR 12 2006

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

Department of Water Resources
Eastern Region

- 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 rights(s) or claims(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 your water rights(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county)
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 Geneva Land and Cattle, LLC
329 S. Woodruff, Idaho Falls, ID 83401
- 4 New Owner/Claimant(s) Kevin Toner and/or Yodon Thonden, ARISTEIA CAPITAL
Name connector (check one): [] and [] or, [] and/or
New Mailing Address 136 Madison Ave., 3rd Floor
City, State and ZIP Code New York, NY 10016
New Telephone Number ~~917-749-5796~~ 212 842 8983
- 5 Date you acquired the property August 5, 2005

RECEIVED

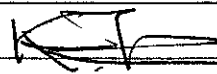
APR 03 2006

Department of Water Resources
Eastern Region

- 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	24-4019	
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	0.6 cfs	20
Stock		
Domestic		
Other		
TOTAL	0.6 cfs	

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	24-4020	
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	0.64 cfs	24
Stock		
Domestic		
Other		
TOTAL	0.64 cfs	

7 Signature of New Owner(s) Or Claimant(s) 
(include title if applicable) KEVIN TONER

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

For Office Use Only

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

Instrument 173890
 2005-08-08 03:49:35 No. of Pages: 1
 Recorded for: CARIBOU TITLE
 CARIBOU COUNTY CLERK
 Ex-Officio Recorder Deputy *BA Shuman* Fee: 3.00
 Index to: WARRANTY DEED

WARRANTY DEED

For Value Received

GENEVA LAND AND CATTLE, LLC.,

the grantor, does hereby grant, bargain, sell and convey unto

KEVIN TONER AND YODON THONDEN, husband and wife,

of Aristeia Capital, 381 5th Ave., New York, New York 10016,

the grantees, the following described premises, to-wit:

Caribou County, Idaho:

Township 9 South, Range 46 East of the Boise Meridian:

Section 20: E~~1~~SE~~1~~.Section 21: W~~1~~SW~~1~~.Section 28: W~~1~~NW~~1~~.Section 29: E~~1~~NE~~1~~.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that it is the owner in fee simple of said premises; that said premises are free from all encumbrances and that it will warrant and defend the same from all lawful claims whatsoever.

GENEVA LAND AND CATTLE, LLC
 By Mauri Ventures, LLC

By: *JAYCE HOWELL*
 Managing Member

STATE OF IDAHO)

County of *Bonneville* : ss.

On this *9th* day of August, 2005, before me the undersigned, a notary public in and for said County and State, personally appeared Jayce Howell known or identified to me to be the managing member of Mauri Ventures, LLC that executed the instrument or the person who executed the instrument on behalf of said Mauri Ventures, LLC, which is subscribed to the within instrument as the managing member of Geneva Land and Cattle, LLC., and acknowledged to me that such LLC executed the same as such managing member.

SHARLA K. RAWSON
 Notary Public
 State of Idaho

Sharla K. Rawson
 NOTARY PUBLIC FOR THE STATE OF IDAHO
 Residing at: *Soda Springs, Idaho Falls, Idaho*
 My commission expires: *1-10-06*

RECEIVED
 OCT 2 2005
 By: *pe*

286.

ABSTRACT OF TITLE

Land situate in the County of Caribou, State of Idaho.

The Southeast quarter ($SE\frac{1}{4}$) of Section Fifteen (15); The West half of the Southwest quarter ($W\frac{1}{2} SW\frac{1}{4}$) of Section Fourteen (14); the West half of the Northwest quarter ($W\frac{1}{2} NW\frac{1}{4}$) of Section Twenty-three (23) and the Northeast quarter ($NE\frac{1}{4}$) of Section Twenty-two (22), in Township Ten (10) South, Range Forty-five (45) East of the Boise Meridian, containing Four hundred eighty (480) acres, according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor-General.

THE FEDERAL LAND BANK
OF SPOKANE

52

Prepared

for

Bear River Valley Land & Abstract Co.

DEC 20 2004

FEDERAL BANK OF SPOKANE
DISTRICT NO. 12

LOCATION NO

...I CAN'T

Sheet "A"

No.

286.

ABSTRACT OF TITLE

TO

Land situate in the County of Caribou, State of Idaho.

The Southeast quarter (SE $\frac{1}{4}$) of Section Fifteen (15); The West half of the Southwest quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Fourteen (14); the West half of the Northwest quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$) of Section Twenty-three (23) and the Northeast quarter (NE $\frac{1}{4}$) of Section Twenty-two (22), in Township Ten (10) South, Range Forty-five (45) East of the Boise Meridian, containing Four hundred eighty (480) acres, according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor-General.

THE FEDERAL LAND BANK
OF SPOKANE

LOAN NO. 4942

Prepared

for

Bear River Valley Land & Abstract Co.

DEC 29 2004

AS

FEDERAL LAND BANK OF SPOKANE
DISTRICT NO. 12

LOCATION NO. 4942
APPLICANT Math P. Allenman
Intype

Sheet "A"

286.

ABSTRACT OF TITLE

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THE FEDERAL LAND BANK
OF SPOKANE

LEAD

Prepared

for

Bear River Valley Land & Abstract Co.

DEC 23 2004

AND BANK OF SPOKANE
DISTRICT NO. 12

PLICATION NO

LICANT

Sheet "A"