



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

10-21-04 Assessor's Office:

Geneva Cattle & Land LLC

329 S Woodruff

Jolake Falls, Ia 8340

10-21-04

5-26-05 Put a copy of the plat, topo & ortho maps in file. PE.

23 July 05 field inspection. See A24-0408 for full contact log. CB

9-26-05 Letter to Geneva re ownership change. ~~PE~~

10-6-05 Received warranty deed from Kennington Trust to Geneva Cattle. In file 24-4018

10-12-01 Received ltr from Star Valley planning. ~~PE~~

24-4019 - 19.16 acres SESE sec. 20 & SW SW Sec. 21 claimed 40

8/29/06 add PM comparison report; patent plat maps CB
The time line documents
Recommendation Composite. See notes. CB

2/26/07 A copy of Kent Foster's letter and the affidavits are located in this file. Originals are filed in 24-4018.

19 14
11 04
17 43
16 28

63.93
- 2.00
61.93

61.93
~ 62 AC

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENI W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
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Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

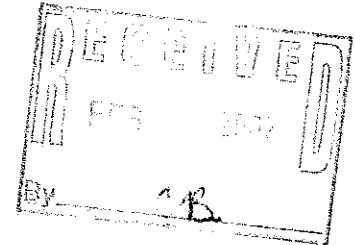
Of Counsel
Fred J. Hahn

*Also Licensed in Missouri & Kansas

**Also Licensed in Utah & Colorado

February 1, 2007

Cindy Bird
Idaho Department of Water Resources
15 W. Center St.
Soda Springs, ID 83276



RE: Claims of Kevin Toner, Yodon Thonden and Joel Porter

Dear Ms. Bird:

You may already have seen these, but we are enclosing copies of objections we filed on behalf of Kevin Toner and Yodon Thonden, and on behalf of Joel Porter with respect to the water rights for the former Harvey Kennington Ranch on Sage Creek and Crow Creek in Sections, 20, 21, 28 and 29, T9S., R46E. As you know, Mr. Kennington had filed five (5) statutory claims to document the beneficial use rights for this ranch back in 1979, numbers 24-4018, 24-4019, 24-4020, 24-4021 and 24-4022. His statutory claims appeared to be supported by a 1956 affidavit of one Fred Beyler and one from A.L. Dorney of the same date.

We have tried to determine, as accurately as possible, the history of the irrigation system and practices on this ranch. Mr. Monte Clemow was hired by Mr. Toner and Mr. Porter last year to manage and operate the ranch. Mr. Porter owns the west portion and Mr. Toner and Ms. Thonden now own the east portion. In the process of managing the ranch, Mr. Clemow had consulted with former operators to understand the irrigation system. He had visited at length with Mr. Robert Beus, a son-in-law of Harvey Kennington, Max Beyeler, a son of Fred Beyler, who homesteaded much of the ranch, and a brother-in-law of Harvey Kennington, and Mr. Errol Hoopes, who had worked for Mr. Kennington and helped with the irrigation in the 1940s and 1950s. We were able to obtain affidavits from Mr. Clemow, Mr. Beus and Mr. Beyeler, copies of which are enclosed with this letter (as well as the Kennington Affidavits (statutory claims), Fred Beyler and A.L. Dorney affidavits). Unfortunately, before we were able to visit with Mr. Hoopes, who was quite elderly, he was taken ill and passed away.

We had Messrs. Clemow, Beus and Beyeler help prepare a map to show what they know of the irrigation system and irrigated lands. A copy is attached to each of their affidavits.

As we have come to understand it, there are five ditch systems which affect the lands on this ranch, and it appears that is basically why Mr. Kennington filed the five statutory claims. As the map attached to the Clemow, Beus and Beyeler affidavits show, and as the gentlemen have explained it to us, the five ditch systems appear to be essentially as follows:

1. A ditch heads on south side of Crow Creek in the NENE, Sec. 29. It flows to the east, and a branch flows north along the east property line of the Toner/Thonden property. It irrigates the land in blue, approximately 36 acres. This appears to be closest to the statutory claim number 24-4018, filed by Harvey Kennington.
2. A ditch heads on north side of Sage Creek in SESW, Sec. 20, T9S., R46E. It flows to the east and apparently irrigates some acreage of the Toner/Thonden land north of Sage Creek and south of the road in the SESE, Sec. 20. This appears to be closest to the statutory claim, number 24-4019, filed by Harvey Kennington, and has been recommended as 24-10751.
3. A ditch heads on south side of Sage Creek in the SESW, Sec. 20. It flows to the east and irrigates the land shown in pink, approximately 32 acres, some 18 of which are owned by Joel Porter and 14 of which are owned by Toner/Thonden. This is closest to the statutory claim number 24-4020, of Harvey Kennington, and has apparently been split into 24-10750 and 24-10752, in the name of Joel Porter, and 24-10753 in the names of Toner and Thonden.
4. A ditch heads at a spring which rises about midway along and just north of the south line of the SESE, Sec. 20, and also collects runoff water from irrigation of the lands in pink from Sage Creek and the lands in yellow from Crow Creek. It runs to the east and waters the land shown in orange, about 23 acres of Toner/Thonden property. We have used the number 24-2021 for this one, although the statutory claim of Harvey Kennington is confusing to us. Apparently this number was split into 24-10763 and 24-10764, neither of which were recommended.
5. A ditch heads on the north side of Crow Creek in the SENE, Sec. 29, and flows northeast to irrigate about 36 acres shown in yellow. About 8 acres is owned by Porter and 28 acres by Toner/Thonden. This appears to us to be closest to the statutory claim of Harvey Kennington, number 24-4022.

This is the best information available to us at this time. We will look forward to getting together with you and Nick Spencer to try to work out the appropriate SF5 to resolve the objections. Thank you for your assistance and efforts on these subcases.

Cindy Bird
Idaho Department of Water Resources
February 1, 2007
Page 3 of 3

Yours very truly,



Kent W. Foster

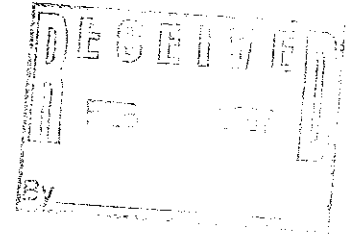
Enclosures

c: Nick Spencer

G:\WPDATA\KWF\10652 MARTIN, STEPHEN E\07 Toner, Kevin\Cindy Bird ltr 020107 wpd:cdv

AFFIDAVIT OF J. ROBERT BEUS

STATE OF IDAHO)
)ss
County of Bonneville)



J. Robert Beus, being first duly sworn, on his oath deposes and says:

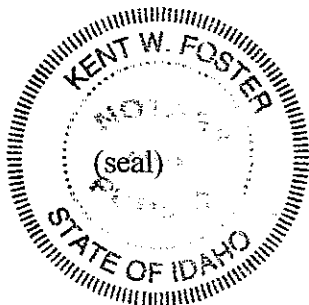
1. I am a citizen of the United States and a resident of 5253 Bitter Creek Rd., Fairview, Wyoming 83119. I am Fifty-nine (59) years of age, and am married to Lynette Kennington, the daughter of George Harvey Kennington, whom I married in September of 1969. I have personal knowledge of the facts stated herein and make this affidavit from such personal knowledge.
2. Beginning a year prior to my marriage, in approximately October of 1968, I first became acquainted with a ranch owned by my wife's father, G. H. Kennington, located on Sage Creek and Crow Creek in Sections 20, 21, 28 and 29 of T9S., R46E., in Caribou County, Idaho. Beginning in the summer of 1969, my wife and I came to the ranch and we assisted with haying and with irrigation of the ranch every summer from that time until about 1982 when I actually commenced operating the ranch. From 1982 through about 2002, I personally operated the ranch, being responsible for and actually performing all of the irrigation thereon. The ranch has been irrigated, to my knowledge, pretty much in the same fashion for the entire time I was acquainted with it and for many years prior thereto.
3. Attached to this affidavit is a map which shows the ditches and areas irrigated at the time I was familiar with the ranch and which I understand was the way the ranch was irrigated during the irrigation season of 2006. The map is a portion of a United States Geological Survey Quadrangle Map and shows the ranch lands now owned by Joel Porter and Kevin Toner. The ditches include a ditch which diverts water from Sage Creek in the SESW, Sec. 20, of said township and range, and flows in a generally southeasterly direction and irrigates the land shown in pink on the map. A second ditch commences at a headgate located on Crow Creek in the SWNE, Section 29, of said township and range, and flows in a generally northeasterly direction and irrigates the land shown in yellow on the map. A third ditch commences at a spring which receives much of its water from overflow irrigation from both the Sage Creek and the Crow Creek ditches which irrigate the property up gradient from said

spring, located near the south edge of the SESE, Sec. 20, of said township and range, and which flows in a generally easterly direction and irrigates the land shown in orange on the map. The final ditch commences at a headgate on the south side of Crow Creek in the NENE, Sec. 29, of said township and range, and flows in a generally north and easterly direction to a point near the eastern boundary of the land now owned by Mr. Toner at which point it turns and runs almost directly north along the property line and irrigates the land shown in blue on said map.

DATED this 16th day of January, 2007.


J. Robert Beus

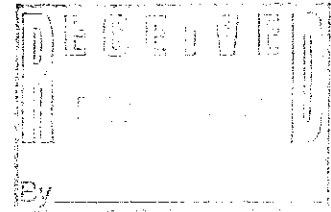
SUBSCRIBED AND SWORN TO before me this 16th day of January, 2007.




Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires: 11/20/2010

**AFFIDAVIT OF
MAX F. BEYELER**

STATE OF IDAHO)
)ss
County of Jefferson)



Max F. Beyeler, being first duly sworn, on his oath, deposes and says:

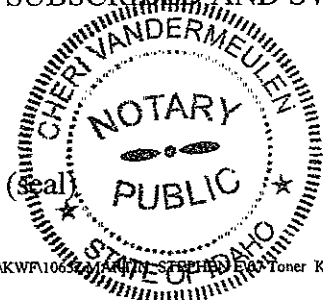
1. I am a citizen of the United State of America and reside at 465 N. Yellowstone Highway, Rigby, ID 83442. I am eighty-eight (88) years of age, having been born May 15, 1918. I have personal knowledge of the facts set forth herein, and make this affidavit from such personal knowledge
2. I am quite familiar with the ranch land in Sections 20, 21, 28 and 29, of T9S., R46E., which I have been informed are now owned by Kevin Toner, Yodon Ihondon, and Joel Porter, as well as the irrigation of such land over a period of several decades. My father, Fredrick Beyeler, homesteaded some of this land before or at about the time of my birth. My father built a cabin on the property, south of Crow Creek in the NWNW, Sec. 28 of said Township and Range and I recall how excited I was to spend the night in the new cabin when I was about four years of age or younger. By the time I was five years old, our family was living in the cabin, and I grew up on this ranch, helping with the farm work, including the irrigating. Most of the ditches were constructed before I was born or when I was very young, and have remained in the same location and irrigated essentially the same land since I first became aware. I was on the property last year (2006) and observed that the ditches are in the same location and the irrigation is still being done pretty much the same way as it always has been.
3. In the summer of 1929, when I was 11 years of age, I assisted by father and others as we began construction of a new ditch which diverted water from the north side of Sage Creek, in the SESW, Sec. 20, in said Township and Range, and which carried water to the east, across the road in the SWSE of said Section. The ditch carried water to a neighbor's property to the east, now owned by the Simplot Company, and for many years, water from this ditch contributed to the irrigation of several acres of our land in the SESE of Section 20, between the north side of Sage Creek and the road which runs through the north part of this quarter-quarter section.

4. For many years, my wife and I owned a ranch further up Sage Creek where we also resided. My brother-in-law, G. Harvey Kennington, bought the ranch on Crow Creek from my father and also homesteaded some additional property which became part of the ranch and continued the same irrigation practices, using the same system, until sometime in the early or mid 1980s. At that time, his son-in-law, Robert Beus, took over the operation of the ranch, and except for a year or two when the land was leased, personally did most of the irrigation. Because I often drove past and was also frequently present on the ranch, I observed that the irrigation continued essentially the same as it was always done from the time I was a small boy in the 1920s.
5. A map is attached to this affidavit, on which are depicted four ditches and the land irrigated from each. The ditch I helped construct, from the north side of Sage Creek, is not depicted because, I have been informed, the current owners do not claim a right from said ditch. The four ditches depicted include one which diverts from the south side of Sage Creek in the SESW, Section 20 and proceeds east to where it irrigates the lands shown in pink. The second is a ditch which heads on the north side of Crow Creek in the SWSE, Section 29, and flows in a northeasterly direction to irrigate the lands shown in yellow. The third ditch collects water, which runs off the land shown in yellow and pink and springs up about midway along and near the south line of the SESE, Section 20, and then flows essentially east to irrigate the lands shown in orange. The fourth ditch diverts water from the south side of Crow Creek in the NENE, Section 29, and runs east for about a quarter mile to a point near the east property line of the ranch where a branch runs north along the property line. This fourth ditch provides irrigation water for the lands shown on the map in blue.

DATED this 26th day of January, 2007.

Max F. Beyeler
Max F. Beyeler

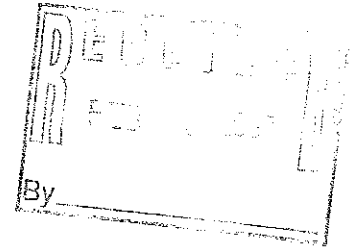
SUBSCRIBED AND SWORN TO before me this 26th day of January, 2007.



Cheri Vandermeulen
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires: July 7, 2009

**AFFIDAVIT OF
MARK M. "MONTE" CLEMOW**

STATE OF IDAHO)
)ss
County of Bonneville)



Mark M. "Monte" Clemow, being first duly sworn, on his oath deposes and says:

1. I am a citizen of the United States, currently residing at Box 7, Fairview, WY 83119, of the age of fifty-seven (57) years, familiar with the lands owned by Kevin Toner, Yodon Thonden and Joel Porter, and the irrigation thereof, and I make this affidavit of my own personal knowledge.
2. I first became familiar with the irrigated lands of Kevin Toner and Yodon Thonden located in Sections 20, 21, 28 and 29, of Township 9 South, Range 46 East and of Joel Porter in Sections 20 and 29 of said Township and Range, which are irrigated from Sage Creek, an unnamed spring, and Crow Creek, about six years ago when I was employed by Mr. Bud Hartman. Mr. Hartman owned equipment such as a backhoe, and I was assigned to clean the irrigation ditches on the above described property. No changes were made in the headgates or location of the ditches; they were cleaned only. When I first observed the ditches, they had the appearance of being very old and of having been used continuously for a long time.
3. In February 2006, I became employed by Kevin Toner and Joel Porter to operate and manage the property referenced above. I have consulted with some individuals who operated the same property for previous owners, and I irrigated the land during 2006 in the same manner I was informed they had done previously. One of such individuals is Mr. Max Beyeler, Rigby, Idaho, who is the son of one of the original homesteaders and brother-in-law of Harvey Kennington, the former owner. He grew up on the ranch and was familiar with the irrigation system and practices for about eighty (80) years. I also consulted with Mr. Enol Hoopes of Fairview, Wyoming, who had helped with the farm work and irrigation of the ranch in the 1940s and 1950s. Unfortunately, about the time we were to obtain his affidavit, he was taken ill and died in the hospital in recent weeks. I also spoke several times, and at length with Mr. Robert Beus of Fairview, Wyoming. He is a son-in-law of Harvey Kennington and was familiar with the irrigation of the ranch from about 1969 to the mid

1980s when he personally took over operation of the ranch which continued until just a couple of years ago.

- 4 The properties of Mr. Porter and Mr. Toner were previously owned as a single ranch, and were and continue to be, irrigated together. A map is attached showing the location of each headgate, ditch and the general area irrigated from each. Water is diverted from Sage Creek in the SESW, Sec. 20 through a headgate on the south side of the creek and conveyed to provide irrigation of the land shown on the attached map in pink, approximately 8 acres in the SWSE, Sec. 20 and 10 acres in the NWNW, Sec. 29, owned by Joel Porter, and approximately 6 acres in the SESE, Sec. 20, and 8 acres in the NENE, Sec. 29, owned by Kevin Toner and Yodon Thonden. A second ditch diverts water through a headgate on the north side of Crow Creek in the SWNE, Sec. 29 and conveys water to provide for irrigation of the land shown on the map in yellow, approximately 4 acres in the NWNW, and 4 acres in the SWNE, of Sec. 29, owned by Joel Porter, and approximately 3 acres in the SESE, Sec. 20, 3 acres in the SWSW, Sec. 21, 3 acres in the NWNW, Sec. 28, 22 acres in the NENE, and 1 acre in the SENE, Sec. 29 owned by Kevin Toner and Yodon Thonden. A third ditch heads on a spring located approximately in the center of the SESE, Sec. 20, near the south boundary, which then flows east providing irrigation water for the land shown in orange on the attached map, approximately 5 acres in the SESE, Sec. 20, 12 acres in the SWSW, Sec. 21 and 6 acres in the NWNW, Sec. 28, owned by Kevin Toner and Yodon Thonden. A fourth ditch conveys water diverted through a headgate on the south side of Crow Creek in the NENE, Sec. 29 and provides water for the irrigation of the lands shown in blue on the attached map, approximately 6 acres in the NWSW and 16 acres in the SWSW, Sec. 21, 12 acres in the NWNW, Sec. 28 and 2 acres in the NENE, Sec. 29, also owned by Kevin Toner and Yodon Thonden.

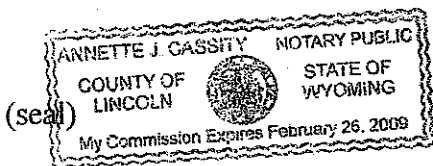
DATED this 30th day of January, 2007.


Mark M. "Monte" Clemow

STATE OF ^{Wyoming} ~~IDAHO~~)
)ss.
County of Lincoln)

On this 30 day of January, 2007, before me a notary public in and for said State, personally appeared Mark M. "Monte" Clemow known or identified to me (or proved to me on the oath of Mark M. "Monte" Clemow) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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



Annette Cassity
Notary Public for ~~Idaho~~ Wyoming
Residing at: Alpen
My commission expires: 2-26-09

G:\WPDATA\KWF\10652 MARTIN STEPHEN E\07 Toner Kevin\Monte Clemow Affidavit wpd.cdv

A. L. Dorney

AFFIDAVIT

FILED: August 23, 1956 at 1:51 P.M.

Instrument No. 38,156

Recorded: Book 6 of Miscellaneous Records,
at page 21, records of Caribou County, Idaho.

STATE OF IDAHO)
 : SS.
COUNTY OF BEAR LAKE)

A. L. DORNEY, being first duly sworn upon oath deposes and says: That he is a citizen of the United States over the age of Eighty years;

That affiant has lived in Bear Lake County, Idaho, for more than sixty years past and is well acquainted with the Crow Creek section of Caribou County, Idaho.

That affiant is well acquainted with the Fred Beyler Ranch situated at the junction of Sage Creek and Crow Creek Canyons, in Caribou County, and knows of his own knowledge that a poition of said ranch has been irrigated by waters from Sage Creek and Crow Creek, ever since the year 1919, and that a portion of said ranch has been irrigated by waters from Sage Creek ever since the year 1902.

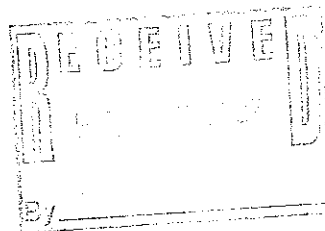
A. L. Dorney

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

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

(Seal)

—0—



MICROFILMED

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 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 visable 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 appromimately 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,

CARIBOU COUNTY ABSTRACT COMPANY
Beda Springs, Idaho

SHEET
NO.

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

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

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 1/4 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 CO3 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.

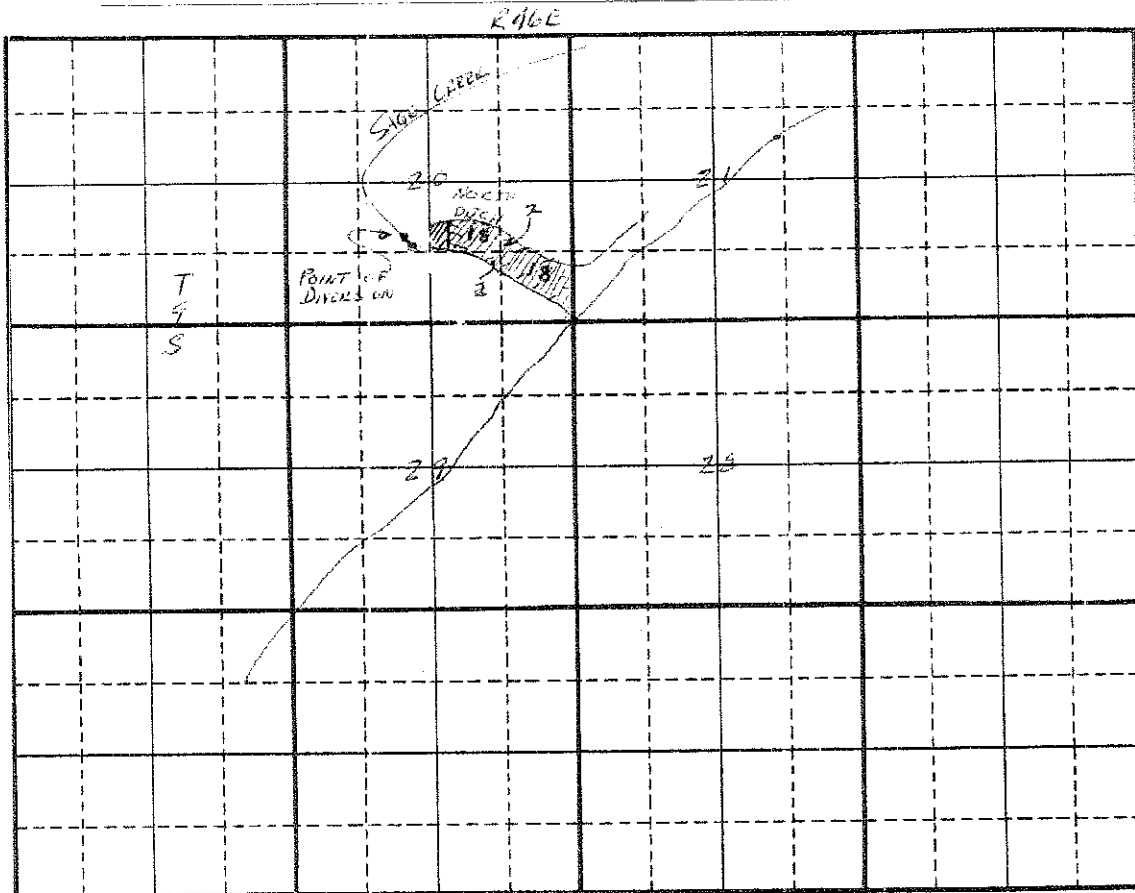
Mr. Beyler's affidavit isn't clear what ground he's referring to as being irrigated.

— 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)

— Under 24-10750 recommended 0.03 cts/acre although there was no evidence to support more than 0.02 cts/acre it's such a small amount. They will need all of that to convey the water to the P.O.U. for flood irrigation.

(8) Remarks DITCH IS ABANDONED SAGE CR NORTH DITCH (HAYS SAGE CR DITCH)



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 19 79

William H. Hargrett
(Claimant)
William Hargrett
Notary Public
Residing at Idaho Falls, Id

My commission expires 6/15/81

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

OK
JC
7/26/06

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
24-4019		√			
24-4020		√			

- 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 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) Joel Porter
Name connector (check one): [] and [] or, [] and/or
New Mailing Address 130 North Court
City, State and ZIP Code Memphis, IN 38103
New Telephone Number 901-524-5117
- 5 Date you acquired the property March 3, 2005

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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		
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		
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	0.96 cfs	36
Stock		
Domestic		
Other		
TOTAL	0.96 cfs	

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

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

Instrument # 172863

2005-03-04 01:42:57 No. of Pages: 1

Recorded for : CARIBOU TITLE

CARIBOU COUNTY CLERK

Ex-Officio Recorder Deputy *BA Straatman* Fee: 3.00

Index to: WARRANTY DEED

Accepted and Approved

WARRANTY DEED

For Value Received

GENEVA LAND & CATTLE, LLC, an Idaho limited liability company,
the grantor of Idaho Falls, Idaho, does hereby grant, bargain, sell
and convey unto

JOEL PORTER, a married man

of 130 North Court, Memphis, TN 38103, the grantees, the following
described premises, to-wit:

Caribou County, Idaho:

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

Section 20: S1/4NW1/4, SW1/4, W1/4SE1/4.

Section 29: W1/4NE1/4.

TOGETHER WITH State of Idaho Water Right Nos. 24-4019 and 24-4020.

TO HAVE AND TO HOLD the said premises, with their
appurtenances unto the said Grantees, their heirs and assigns
forever. And the said Grantor does 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 & CATTLE, LLC., an
Idaho limited liability company.

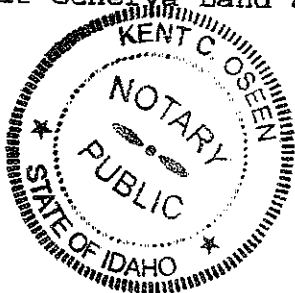
By:

SLC Manager
STEVE CRANDALL, MANAGER

STATE OF IDAHO)

County of *Bonneville*) ss.

On this 3 day of March, 2005, before me the undersigned,
a notary public in and for said County
and State, personally appeared Steve Crandall, known or identified
to me to be the manager of the limited liability company that
executed the instrument or the person who executed the instrument
on behalf of said limited liability company and acknowledged to me
that Geneva Land & Cattle, LLC., executed the same.



Kent C O Oseen
NOTARY PUBLIC FOR THE STATE OF IDAHO
Residing at: *IDAHO FALLS* Idaho
My commission expires: *1-7-12*

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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(1911-1971)
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(1939-1982)
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Of Counsel
Fred J. Hahn

**Also Licensed in Missouri & Kansas

July 6, 2006

Jennifer Crabtree
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

RE: SRBA Claims Nos. 24-4019 and 24-4020 in the name of Joel Porter

Dear Jennifer:

Enclosed for filing is a Notice of Change of Water Right Ownership for two split rights. These portions are in the name of Mr. Joel Porter of Memphis, Tennessee. Thank you for your kind attention to this matter.

Yours very truly,



Kent W. Foster

Enclosures

G:\WPDATA\KWF\10652 MARTIN STEPHEN E\07 Toner Kevin\MDWR ltr 070606 wpd:cdv

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Department of Water Resources
Eastern Region

10 January 2006

To File: Kennington Claims 24-4018, 24-4019, 24-4020, 24-2022

Re: Evidence

1. Original claim in name of G. Harvey Kennington 1/29/1990
2. There was apparently an Kennington Revocable Trust established 6/10/1991. We only have the first page that sets forth the Trustee as G. Harvey Kennington and names 5 children and his wife:
 - a. Phillip Kennington
 - b. Donald Kennington
 - c. Lynette K. Beus
 - d. Grant Kennington
 - e. Anna Mae K. Anderson
 - f. Anna Beth Kennington (his wife)
3. Ownership change from Harvey Kennington to:
 - a. Phillip Kennington
 - b. Donald Kennington
 - c. Lynette K. Beus
 - d. Grant Kennington
 - e. Anna Mae K. Anderson
 - f. Anna Beth Kennington
 - g. Dated 5/1/1999
4. No evidence found supporting change from Harvey to 6 others and/or to the Revocable Trust.
5. Warranty Deed dated 7/21/2004 from Kennington Revocable Trust to Geneva Cattle & Land.
 - a. Section 20, S1/2NW, S1/2
 - b. Section 21, W1/2SW, S1/2SE
 - c. Section 22, SESE
 - d. Section 27, N1/2
 - e. Section 28, N1/2
 - f. Section 29, NE
6. Ownership change from Kennington et al to Geneva Cattle & Land dated 10/5/2005.
7. Warranty Deed from Geneva Land & Cattle to Kevin Toner & Yodon Thonden dated 8/2/05.
 - a. Section 20, E1/2SE
 - b. Section 21, W1/2SW
 - c. Section 28, W1/2NW
 - d. Section 29 E1/2NE
8. Ownership change from Geneva Land & Cattle to Kevin Toner & Yodon Thonden 8/5/2005.

9. Ownership change from 6 Kenningtons to Kevin Toner & Yododn Thonden dated 9/6/05.

NOTE: If we have a change of ownership from Kennington et al to Geneva Cattle why do we need a change from the Kenningtons to Kevin Toner et al?

Amended Notice of Claim for Kevin Toner & Yodon Thonden 10/20/05.

There are 3 affidavits dated 8/23/1956 from:

Fred Beyler, stating:

1. He owns land in T9S,R46E, Sections 20, 21, 28 and 29:
 - a. 120 of this land irrigated
 - i. 80 acres irrigated from Sage Creek
 - ii. 40 acres irrigated from Crow Creek
2. Homestead 600 above acres and purchased 160 acres known as Stephen Green homestead.
3. Homestead commenced in 1914
4. In 1907 working on Green place and knows irrigation of 30 acres from Sage Creek
5. In 1930 increased irrigated portion to 40 acres
6. In 1932 diverted water from Sage Creek (which is known as Halls Sage Creek) for an additional 20 acres.
7. In 1919 diverted from Crow Creek to irrigated 30 acres
8. Continually irrigated 120 acres from then to 1956.

NOTE: Not clear what water is irrigating which acres.

A.L. Dorney, supporting irrigation for Fred Beyler Ranch from the Sage Creek and Crow Creek from 1919. Also that a portion of the ranch was irrigated from Sage Creek from 1902.

Benoni Wilkes, supporting irrigation of Fred Beyler Ranch since 1906.

Barbara