



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Director

August 27, 2008

ROBERT L HARRIS  
HOLDEN KIDWELL HAHN & CRAPO PLLC  
PO BOX 50130  
IDAHO FALLS ID 83405-0130

RE: Snake River Basin Adjudication (SRBA)  
Late Notice of Claim to a Water Right #25-14228  
**Your Client: Birch Creek Corp**

Dear Mr. Harris,

The Idaho Department of Water Resource recently received the Motion to File Late Notice of Claim to a Water Right referenced above from the SRBA district court.

The notice indicates that you submitted a filing fee of \$200.00 along with the motion. Currently, the way the claim is filed, the total filing fee should be \$1,100.00 which require additional filing fees in the amount of \$900.00:

|                                           |                         |
|-------------------------------------------|-------------------------|
| 10 cfs @ 100/cfs for Diversion to Storage | \$1,000.00              |
| Filing Fee                                | 50.00                   |
| Late Fee                                  | 50.00                   |
| Subtotal                                  | \$1,100.00              |
| Less Fees Paid to Court                   | 200.00                  |
| <b>Balance Due</b>                        | <b><u>\$ 900.00</u></b> |

However, upon initial review of the claim, it appears that the storage your client is claiming is on-stream storage. Generally, "diversion to storage" is not recommended as a valid use for on-stream storage.

I wanted to bring this to your attention as your client might wish to amend the claim to remove the "diversion to storage" component to the claim. By removing this component, the filing fees would be reduced to \$111.00 as the variable fee would be based on the volume of water claimed.

|                    |                                             |              |
|--------------------|---------------------------------------------|--------------|
| <u>26 AF</u>       | = (3.6 cfs) @ 100/cfs for Aesthetic Storage | \$ 3.60      |
| (1.9835)(365 days) | Recreation Storage                          | 3.60         |
|                    | Wildlife Storage                            | 3.60         |
| Filing Fee         |                                             | 50.00        |
| Late Fee           |                                             | <u>50.00</u> |

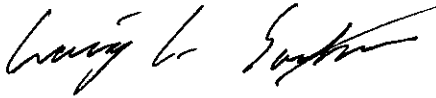
|                         |                        |
|-------------------------|------------------------|
| Subtotal                | ~ \$111.00             |
| Less Fees Paid to Court | <u>200.00</u>          |
| <b>Refund Due</b>       | <b><u>\$ 89.00</u></b> |

If your client wishes to amend the claim to remove “diversion to storage” as a purpose of use, you will need to submit a motion to the court to amend the claim so the SRBA court records are up to date for the hearing. For your convenience I am enclosing a Motion to Amend a Claim form.

If your client wishes to leave the claim as it is, additional filing fees of \$900.00 need to be submitted to the SRBA court.

Please feel free to contact me if you have any questions.

Respectfully submitted,



Craig L. Saxton  
Water Right Supervisor  
Adjudication Bureau  
[craig.saxton@idwr.idaho.gov](mailto:craig.saxton@idwr.idaho.gov)  
208-287-4916