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SRP

RECEIVED

NOV 21 2008

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
NOV 20 2008	
By _____	_____ Clerk

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

Subcase: 25-14228

Case No. 39576

ORDER GRANTING MOTION TO FILE
LATE NOTICE OF CLAIM

On August 13, 2008, Birch Creek Corp, by and through counsel, Robert L. Harris, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on November 18, 2008. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for the above-captioned water right is **granted**.

The original Notice of Claim, as well as any attached filing fees, and a copy of this *Order* will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of *SRBA Administrative Order 1* 4d(2)(h).

IT IS SO ORDERED.

Dated November 20, 2008.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM was mailed on November 20, 2008, with sufficient first-class postage to the following:

BIRCH CREEK CORP

Represented by:

ROBERT L HARRIS

1000 RIVERWALK DR, STE 200

PO BOX 50130

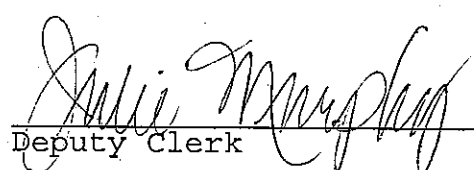
IDAHO FALLS, ID 83405

Phone: 208-523-0620

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

A handwritten signature in cursive script, appearing to read "Julie Murphy", is written over a horizontal line.

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

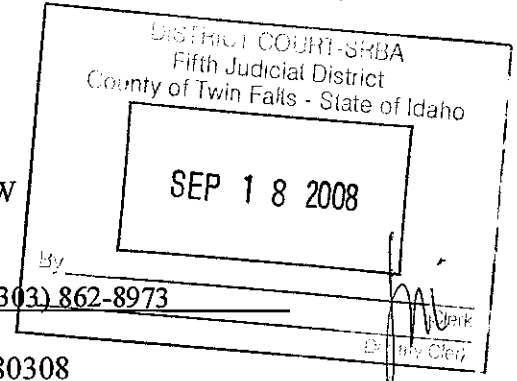
CIVIL CASE NUMBER: 39576

Ident. Number 25-14228

Date Received _____

Receipt Number _____

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



1. Name of Claimant(s) Birch Creek Corp. Phone (303) 862-8973
Mailing Address PO Box 20745, Boulder, CO Zip 80308
2. Date of Priority (Only (1) per claim) June 13, 1960
3. Source of water supply (a) Unnamed Stream

which is tributary to (b) Birch Creek

- 4.a. Location of existing point of diversion is:
Township 2N Range 41E Section 10, NW 1/4 of SW 1/4 of NE 1/4, Govt. Lot _____,
County of Bonneville

Additional points of diversion if any: _____

If Available, GPS Coordinates: _____

- 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. Dam in stream channel with two outlets into channels below dam. Dam is approximately 21.5 feet high and 250 feet across. The dam crest is 7 feet wide.

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

For Aesthetic Storage purposes from 01/01 to 12/31 amount _____ or 26 afa

For Recreation Storage purposes from 01/01 to 12/31 amount _____ or 26 afa

For Wildlife Storage purposes from 01/01 to 12/31 amount _____ or 26 afa

7. Total quantity claimed (a) _____ (cfs) and/or (b) 26 (acre feet)

ORIGINAL

Form No. 42-1409(2)a 1/88

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
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County of Bonneville
Additional points of diversion if any: _____
If Available, GPS Coordinates: _____
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 _____
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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. Dam in stream channel with two outlets into channels below dam. Dam is approximately
21.5 feet high and 250 feet across. The dam crest is 7 feet wide.
6. Water is claimed for the following purposes: (Both dates are inclusive) (cfs) (acre feet)
For Diversion to Storage purposes from 01/01 to 12/31 amount 10 cfs or _____
For Aesthetic Storage purposes from 01/01 to 12/31 amount _____ or 26 afa
For Recreation Storage purposes from 01/01 to 12/31 amount _____ or 26 afa
For Wildlife Storage purposes from 01/01 to 12/31 amount _____ or 26 afa
7. Total quantity claimed (a) 10 (cfs) and/or (b) 26 (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Pond is approximately 3.5 acres in surface area. Pond is for recreation, aesthetic and wildlife purposes only. No irrigation from the pond is performed.

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
2N	41E	10			JWR														

Total number of acres irrigated 0

10. In which county(ies) are lands listed above as place of use located? Bonneville

11. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (☒)

13. Remarks: Pond may have been constructed in 1940s or 1950s, but earliest evidence of priority is from aerial photos taken on June 13, 1960, which is the claimed priority date. The volume of the pond when it was originally constructed was 26 acre feet. See attached report.

14. 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 _____

15. 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.

Number of Attachments _____

Last Name Birch Creek Corporation . Ident. Number _____

For Individuals: I/we do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am President of Birch Creek Corp., that I have signed the foregoing document in the space below as
(Title)
(Organization)
President of Birch Creek Corp. and that the statements contained in the
(Title) (Organization)
foregoing document are true and correct.

Signature of Authorized Agent [Signature]

Title and Organization President, Birch Creek Corp. Date 8/8/08

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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 Robert L. Harris
Address: PO Box 50130, Idaho Falls, ID 83405-0130
Date Aug. 11, 2008

G:\WPDATA\RLH\14930 Birch Creek\Claim.wpd:eds

Last Name Birch Creek Corp. Ident. Number _____

BONNEVILLE COUNTY

KEVIN ECKERSELL
PUBLIC WORKS DIRECTOR
E-MAIL: keckersell@co.bonneville.id.us

STEVEN ROUNDS
ASSISTANT PUBLIC WORKS DIRECTOR
E-MAIL: srounds@co.bonneville.id.us

CAROL WALTON
ADMINISTRATIVE SECRETARY
E-MAIL: cwaltan@co.bonneville.id.us



605 NORTH CAPITAL AVE.,
IDAHO FALLS, IDAHO 83402

PUBLIC WORKS DEPARTMENT
PHONE: (208) 529-1290
FAX: (208) 529-1295

WEB SITE: www.co.bonneville.id.us

July 16, 2008

Chris Blair
Birch Creek Corporation
PO Box 22677
Bakersfield, CA 93390

Re: Aerial photographs

Chris:

I have prepared copies of two aerial photographs for the Birch Creek Ranch subdivision. The photographs are dated 6-13-60 and the copies are of sheets CXO-4AA-38 and CXO-4AA-109. We cannot certify to the date or to the origin of the photos but we believe that the 1960 set of aerals (and other sets in our office) were originally used by the Bonneville County Assessor's office to identify different types of agricultural lands.

Please don't hesitate to contact me if you have any other questions.

Sincerely,

Steven Rounds
Bonneville County Surveyor

6-13-60

DATE OF PHOTO

4-36

D6
18

JARLO MOSS

EAST W

D6

D6
18

34 35

D6
3
D6

39

D6

STAT

CX0-4AA-38

PHOTO
HUNT

MIMERS BROS.

DAV
138

2
30.93

3
2.87

FAV WHEELER

DAV
138

DAV
138

3

6

3 2

10 11

Don't

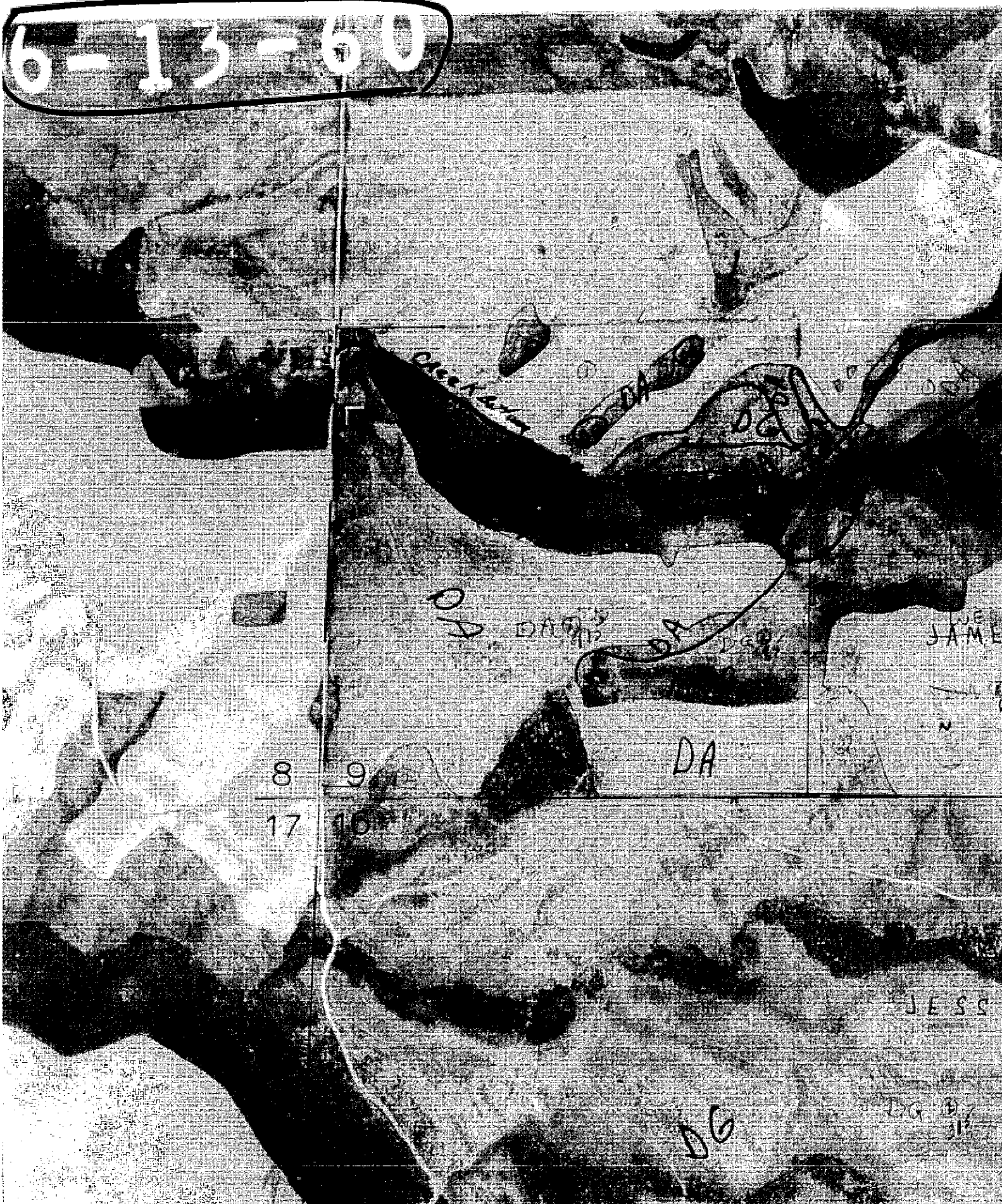


10 11

15 14

— DATE OF PHOTO

6-13-60



POND

OXO-4AA-109

1 2 N R41E

PHOTO
NUMBER

7

ROBSON
HAWAII

10

15

14

W. H. H. S.

W. H. H. S.

Idaho Department of Water Resources Receipt

Receipt ID: C087751

Payment Amount	\$200.00	Date Received	11/21/08 1:21	Region	STATE
Payment Type	Check	Check Number	40935		
Payer	HOLDEN, KIDWELL, HAHN, & CRAPO, P.L.L.C.				

Comments Birch Creek Corp.
Late Notice of Claim SRBA 39576
Subcase: 25-14228

Fee Details

Amount	Description	Fund	Fund Detail	PCA	Subobject
\$200.00	ADJUDICATION FILING FEE	0337		41503	1155

SR7

Signature Line (Department Representative)