

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

FEB 07 2011

Department of Water Resources
Eastern Region

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, *Idaho Code*, any person claiming a water right established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. **The filing of this claim does not confirm the water right claimed.** Water rights represented by a valid permit, license, decree, or previous claim are exempt from this requirement, as are uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*. A filing fee must be submitted with this claim. See the instruction sheet to determine the appropriate fee.

Notice is hereby given that PacifiCorp, formerly Utah Power & Light Co.
(Name of Claimant)

Mailing Address: 1407 W. North Temple #110, Salt Lake City, UT 84116 attn:

Claudia Conder

Telephone No: 801-220-2252 Email: claudia.conder@pacificorp.com

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

1. Date of Priority: (When the water was first applied to beneficial use) January 1, 1918
A claim is not acceptable for the use of surface water with a priority later than May 20, 1971. A claim is not acceptable for the use of ground water with a priority date later than March 25, 1963, unless the water is used for domestic purposes as defined in Section 42-111, Idaho Code.

2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Kackley Springs complex tributary to Bear 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:

(cfs or af)	(Irrigation, Domestic, Stock, Etc.)	(Both dates inclusive) (MM/DD) (MM/DD)
Quantity <u>12 cfs</u>	Use <u>fish & wildlife enhancement</u>	Period of Use From <u>01/01</u> to <u>12/31</u>
Quantity _____	Use _____	Period of Use From _____ to _____
Quantity _____	Use _____	Period of Use From _____ to _____
Quantity _____	Use _____	Period of Use From _____ to _____

4. 12 cfs TOTAL QUANTITY USED.
(cfs or af)

5. A) Location of point of diversion is SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of _____ $\frac{1}{4}$, Govt. Lot _____
Sec. 21 Township 10S Range 40E B.M., Caribou County; additional points
of diversion, if any: NW1/4 NW1/4 Sec.28, T10S R40E, B.M. Caribou Co.

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

7 spring sources located in the SE1/4SW1/4 of Sec.21. 2 spring sources
located in the NW1/4NW1/4 of Sec. 28. All sources naturally flow into the
spring complex/ponds located in the SW1/4SW1/4 of 21 and NW of 28.
See explanatory and map attached.

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.

D - domestic, S - stockwater, M - municipal, C - Commercial, I - Industrial, X - other

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	40E	21											X	X					
10S	40E	28					X	X											

TOTAL ACRES _____

- B) If water is used for purposes other than irrigation, fully describe the use. Be specific.

Water is used for fish and wildlife enhancement and is NON-consumptive.

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

7. Remarks: See affidavits from Elwood Wilker and Virgil Roholt.
Also attached is 1956 aerial photography from USDA office, Salt Lake City
8. Map -- Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an aerial photograph of the place of use if available.

State of UTAH)
County of SALT LAKE) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing 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.

[Signature]
Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 9th day of February, 2011.



[Signature]
Notary Public
Residing at: Salt Lake City
My commission expires: 3/7/2011

FOR DEPARTMENT USE ONLY

Received by _____ Date 2/7/11
Prelim. check by _____ Date _____
Fee 500 Receipt # E036409
Receipt prepared by SC Date 2/8/11

Published in _____
Publication dates _____
Publication checked by _____ Date _____
Exceptions filed by _____

Claim to a Water Right application explanatory Kackley Spring Complex near Grace, Idaho

Water flow at the Kackley spring complex originates from 9 primary spring sources. The combined water flow from the springs varies in amount throughout the year from a low of 7 cfs to high of 12 cfs. These sources are at the base of a basalt talus slope. The water is collected in a stream channel that moves the spring water around the general vicinity. In 2009, a restoration project took place to connect the 9 spring sources with 2 historic fish ponds and an existing stream channel that returns the flow to the Bear River. The main fish pond has 2 concrete and wood flashboard structures that control the amount of water returning directly to the Bear River or travelling down the longer route to the Bear River. The smaller fish pond is impounded by a concrete control structure with wooden flashboards. 100% of the spring flow is directed down the long route to the river and the west headgate on the main pond is only used periodically as needed for channel or other pond maintenance that would require reduced flows in the outflow channel or reduced level in the main pond.

Affidavits from former employees, Elwood G. Wilker and Virgil Roholt, attest to the fact that the ponds existed at the time of their employment at the Grace Hydro plant at least back to 1946. Other historic information indicates that the ponds were likely constructed at the time of construction of the Cove plant which was built in 1917 and 1918 and used to divert water to the Cove Forebay and around the general area to water pasture grass. The Plant operated from the 1918 to 2002. The Cove plant was approximately 1 mile south of the ponds and was decommissioned in 2006. It has been expressed by others in the area that Idaho Fish and Game assisted in providing small fish to stock the ponds. Employees at the Grace Hydro plant would then assist in releasing the fish into the Bear River.

Enclosed is a copy of a 1956 aerial photo acquired from the United States Department of Agriculture Aerial Imagery department clearly showing the two ponds as they existed at that time.

Historically, no active propagation or feeding of fish was undertaken in the ponds. The main historical purpose of the fish ponds was to provide habitat and protection for the smaller fish until they were large enough to survive in the river. The purpose of the ponds and channel going forward will be to provide habitat for aquatic and terrestrial species.

AFFIDAVIT OF ELWOOD G. WILKER

My name is Elwood G. Wilker. I am 77 years old and currently reside at 1962 Turner Road, P.O. Box 114, Grace, Idaho. I am a retiree of PacifiCorp, formerly Utah Power & Light Company (UP&L).

I began working for UP&L in ^{1952 E.G.W.} ~~1951~~ at the Grace Plant in Grace, Idaho. I recall that there were two ponds that were called the Kackley Springs ponds. There was a smaller upper pond and a larger lower pond that were both in existence at the time that were used to raise fish. There were headgates/control structures on the ponds to allow for controlling the water levels in the ponds and releases into the Cove forebay.

Because of my employment and job responsibilities at the Grace plant, I have personal knowledge that the ponds existed while I worked at the plant and for UP&L.

Elwood Wilker, personally came and appeared before me, the undersigned Notary, that he is a resident of Caribou County, State of Idaho, and makes this statement and Affidavit upon oath and affirmation of belief and personal knowledge that the matters stated herein are true to the best of his information, knowledge, and belief.

STATE OF IDAHO

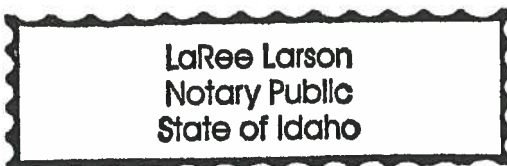
COUNTY OF CARIBOU

Dated this 9th day of December, 2010.

Elwood G. Wilker
Elwood G. Wilker

Subscribed and sworn to before me on this 9th day of December, 2010.

LaRee Larson
Notary Public



My commission expires 01/10/2011

AFFIDAVIT OF VIRGIL ROHOLT

My name is Virgil Roholt. I am 83 years old and currently reside at 398 West 4th South, Grace, Idaho. I am a retiree of PacifiCorp, formerly Utah Power & Light Company (UP&L).

I began working for UP&L in 1946 at the Grace Plant in Grace, Idaho. Part of my job at that time was to assist in placing fish in and removing fish from two small ponds located immediately south of the Grace plant. The ponds were called the Kackley Springs ponds. There was a smaller upper pond and a larger lower pond that were both in existence at the time. There were headgates/control structures on the ponds to allow for controlling the water levels in the ponds and releases into the Cove forebay.

Because of my employment and job responsibilities at the Grace plant, I have personal knowledge that the ponds existed while I worked at the plant and for UP&L.

Virgil Roholt, personally came and appeared before me, the undersigned Notary, that he is a resident of Caribou County, State of Idaho, and makes this statement and Affidavit upon oath and affirmation of belief and personal knowledge that the matters stated herein are true to the best of his information, knowledge, and belief.

STATE OF IDAHO

COUNTY OF CARIBOU

Dated this 9th day of December, 2010.

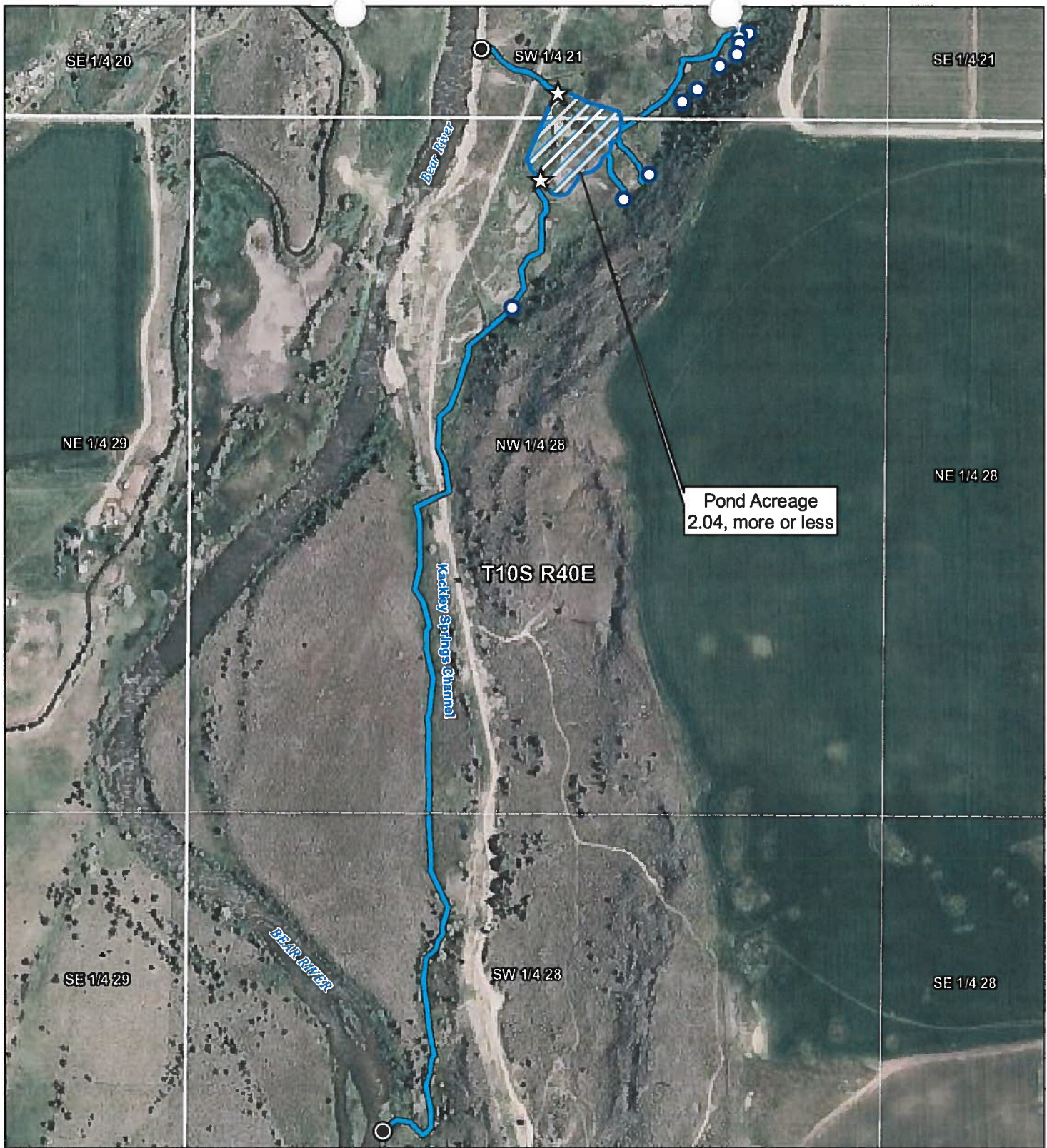
Virgil Roholt
Virgil Roholt

Subscribed and sworn to before me on this 9th day of December, 2010.

LaRee Larson
Notary Public

My commission expires 1/10/2011

LaRee Larson
Notary Public
State of Idaho



2/05/2011 gisdept@pacifiCorp.com U:\Projects\2010\10-183\BearRiver_WaterRightApplication.mxd

Kackley Springs Ponds



0 250 500 Feet

Scale 1:6,000

Legend

-  Spring Source/Point of Diversion
-  Water Control Structure
-  Point of Return
-  Pond
-  Spring Channel
-  PLSS-Section
-  PLSS-Quarter Section



GIS Support Services
Solutions Group
gisdept@PacifiCorp.com

Data is projected in UTM Zone 12, NAD83, meters.

No Warranty. With respect to any information, including but not limited to the Confidential Information, which a Party furnishes or otherwise discloses to another Party for the purpose of evaluating Compliance, it is understood and agreed that the Disclosing Party does not make any representations or warranties as to the accuracy, completeness or fitness for a particular purpose thereof. It is further understood and agreed that no Party or its Representatives shall have any liability or responsibility to another Party or to any other person or entity resulting from the use of any information so furnished or otherwise provided pursuant to this Agreement.

13 - 7787

10-2-56 CXP-1R-4

13- 7787



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

May 11, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

PacifiCorp, formerly Utah Power & Light Co
1407 W. North Temple #110
Salt Lake City UT 85116

RE: Water Right Claim No 13-7787

Dear Claimant:

The Department of Water Resources acknowledges receipt of your water right claim. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the claim has been prepared and is scheduled for publication in the Caribou County Sun on May 19 and 26, 2011. If exceptions to the claim are filed you will be sent a copy of the exception(s).

The filing and advertising of the claim does not confirm the water right claimed. It will serve to record and preserve the information and the evidence, including any exceptions, regarding the claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included with the claim, you may have the information or evidence added at any time. Corrections to the claim may be made by filing an amended claim; no additional filing fees are required to amend a claim.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100.00 late filing fee. Contact any office of the Department or visit the Internet to obtain the proper forms and instructions.

We are enclosing a copy of the claim for your records. Please feel free to contact this office if you have any questions.

Sincerely,

Sharla Cox
Administrative Assistant

Enclosure

Cox, Sharla

From: Cox, Sharla
Sent: Wednesday, May 11, 2011 2:11 PM
To: 'Caribou County Sun (ccsun10@aol.com)'
Subject: Legal ad for your paper
Attachments: Caribou County Sun E-Mail.doc

Contacts: Caribou County Sun

Sharla

Sharla Cox
Administrative Assistant
Idaho Department of Water Resources
900 N. Skyline Dr. Ste. A
Idaho Falls ID 83402
208-525-7161 - telephone
208-525-7177 - fax
sharla.cox@idwr.idaho.gov

The following claim has been filed based on diversion and beneficial use of water

13-7787

PacifiCorp, formerly Utah Power & Light Co
1407 W. North Temple #110
Salt Lake City UT 85116

Point of Diversion: SESW Sec 21 T10S R40E, Caribou County

Source: Kackley Springs complex tributary to Bear River

Use: Fish Enhancement 01/01 To 12/31 12 cfs

Priority Date: 01/01/1918

Place of Use: Fish Enhancement
T10S R40E Sec 21 SWSW SESW
T10S R40E Sec 28 NENW NWNW

Exceptions to a claim may be filed with the Department of Water Resources, Eastern Region,
900 N Skyline Dr, Ste A, Idaho Falls ID 83402 together with an exception fee of \$25.00.

GARY SPACKMAN, Interim Director

Published on May 19 and 26, 2011

February 4, 2011

RECEIVED

FEB 07 2011

Department of Water Resources
Eastern Region

Idaho Dept of Water Resources
Eastern Region
900 N. Skyline Dr. Suite A
Idaho Falls, ID 83402-1718

RE: Claim to a Water Right –Kackley Springs complex near Grace, ID

Dear Sirs:

Please find enclosed a claim to a water right referred to as the Kackley Springs complex. PacifiCorp, formerly Utah Power & Light Company, has historically used the water for habitat and protection of smaller fish until they were large enough to survive in the river. Further description and information is contained in the application and explanatory. Also included are two affidavits from former employees and maps.

Enclosed is a check in the amount of \$500.00 for the filing of this claim. If you have any questions, please contact me at (801)220-2252 or by e-mail at Claudia.Conder@PacifiCorp.com.

Cordially,



Claudia Conder
Water Rights Administrator

Cc: Mark Stenberg, PacifiCorp