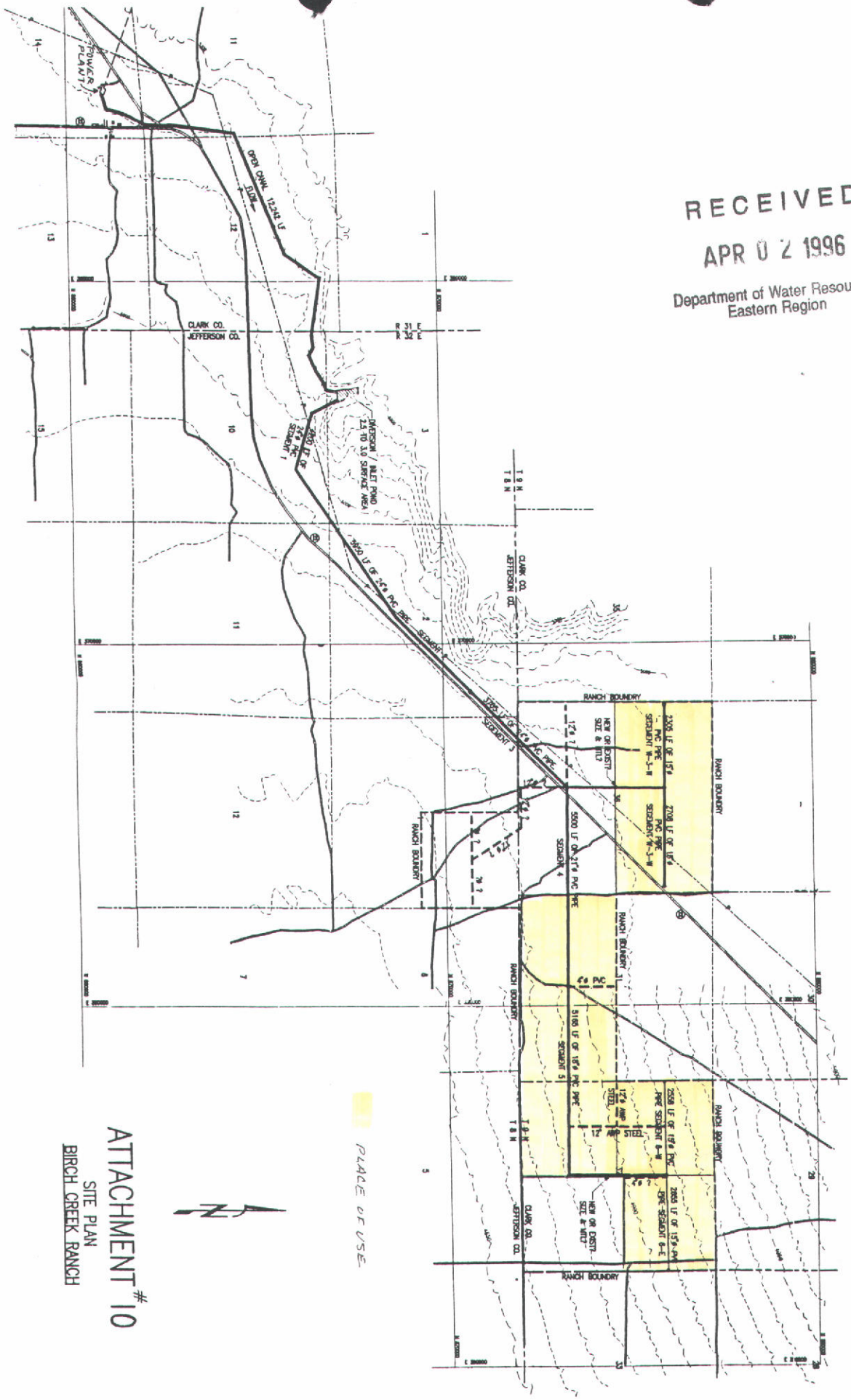
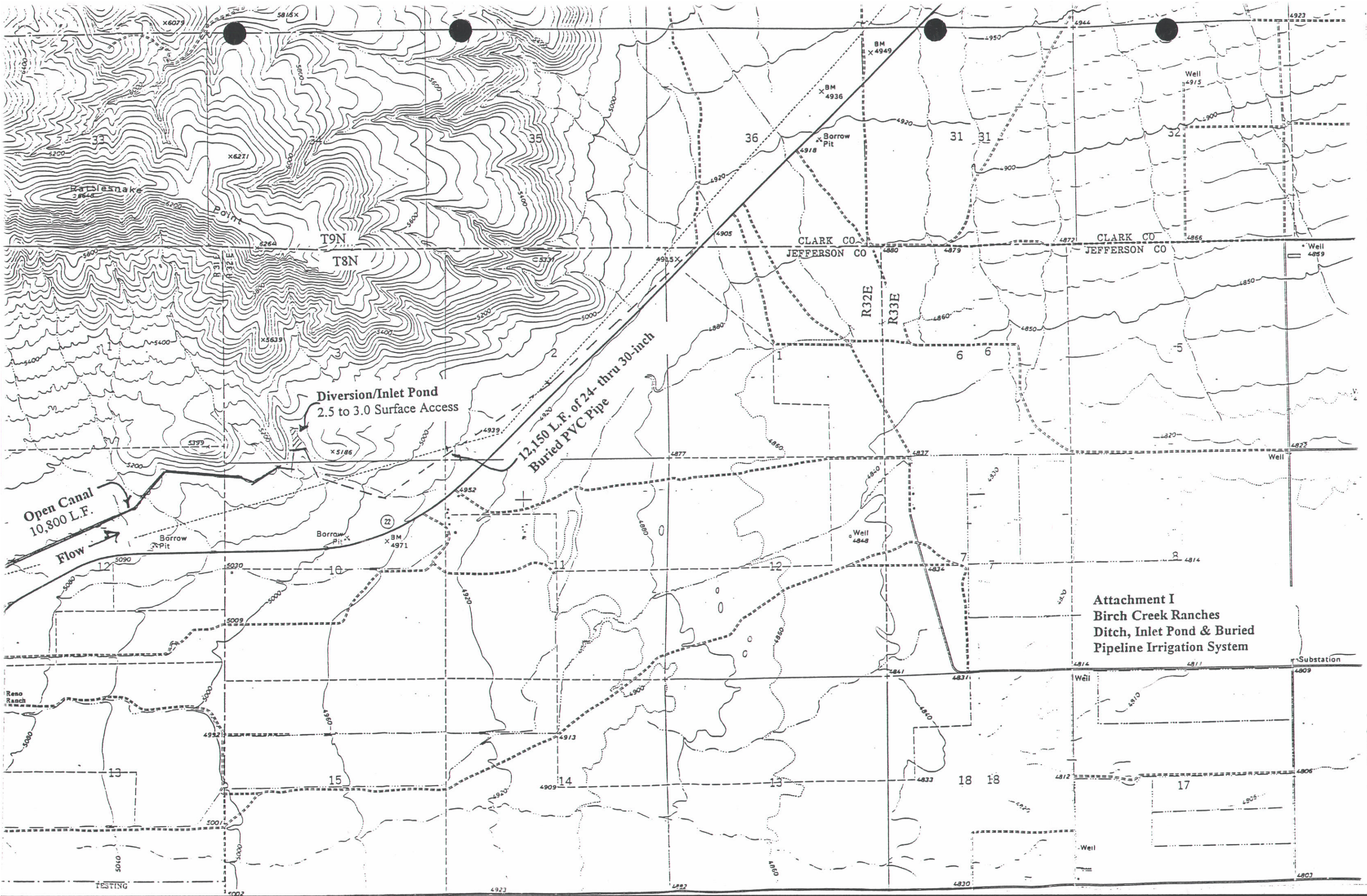
ATTACHMENT NO. 10

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region




ATTACHMENT #10
SITE PLAN
BIRCH CREEK RANCH


Diversion/Inlet Pond
2.5 to 3.0 Surface Access
12,150 L.F. of 24- thru 30-inch
Buried PVC Pipe
Open Canal
10,800 L.F.
Flow
Borrow Pit
Borrow Pit
BM 4971
BM 4949
BM 4936
Borrow Pit
Well 4915
Well 4859
Well 4848
Well
Well
Substation
Rattlesnake Point
T9N
T8N
R31E
R32E
R33E
CLARK CO
JEFFERSON CO
CLARK CO
JEFFERSON CO
Reno Ranch
TESTING
Attachment I
Birch Creek Ranches
Ditch, Inlet Pond & Buried
Pipeline Irrigation System




INTERIOR—GEOLOGICAL SURVEY, RESTON, VIRGINIA—1994

In general, BLM Public Lands are open to a number of recreational activities in addition to those that may be highlighted on the map. These activities include camping, fishing, hiking and hunting. Certain restrictions may apply. Contact the appropriate BLM State, District or Resource Area Office for more information.

KILOMETERS 1 0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20

MILES 1 0 1 2 3 4 5 6 7 8 9 10 11 12 13

POWER CHANNEL AND PIPELINE TO POWER PLANT

PROPOSED NEW GRAVITY FLOW LINE

PROPOSED PLACE OF USE UNDER APP. FOR TRANSFER #3553

PROPOSED PLACE OF USE UNDER APP. FOR PERMIT

SCALE 1:100

1 CENTIMETER ON THE MAP REPRESENTS 1

CONTOUR INTERVAL 5

SUPPLEMENTARY CONTOUR INT

(CONVERSION OF SPOT ELEVATIONS TO FE

BUREAU OF LAND M

LAND STATUS L

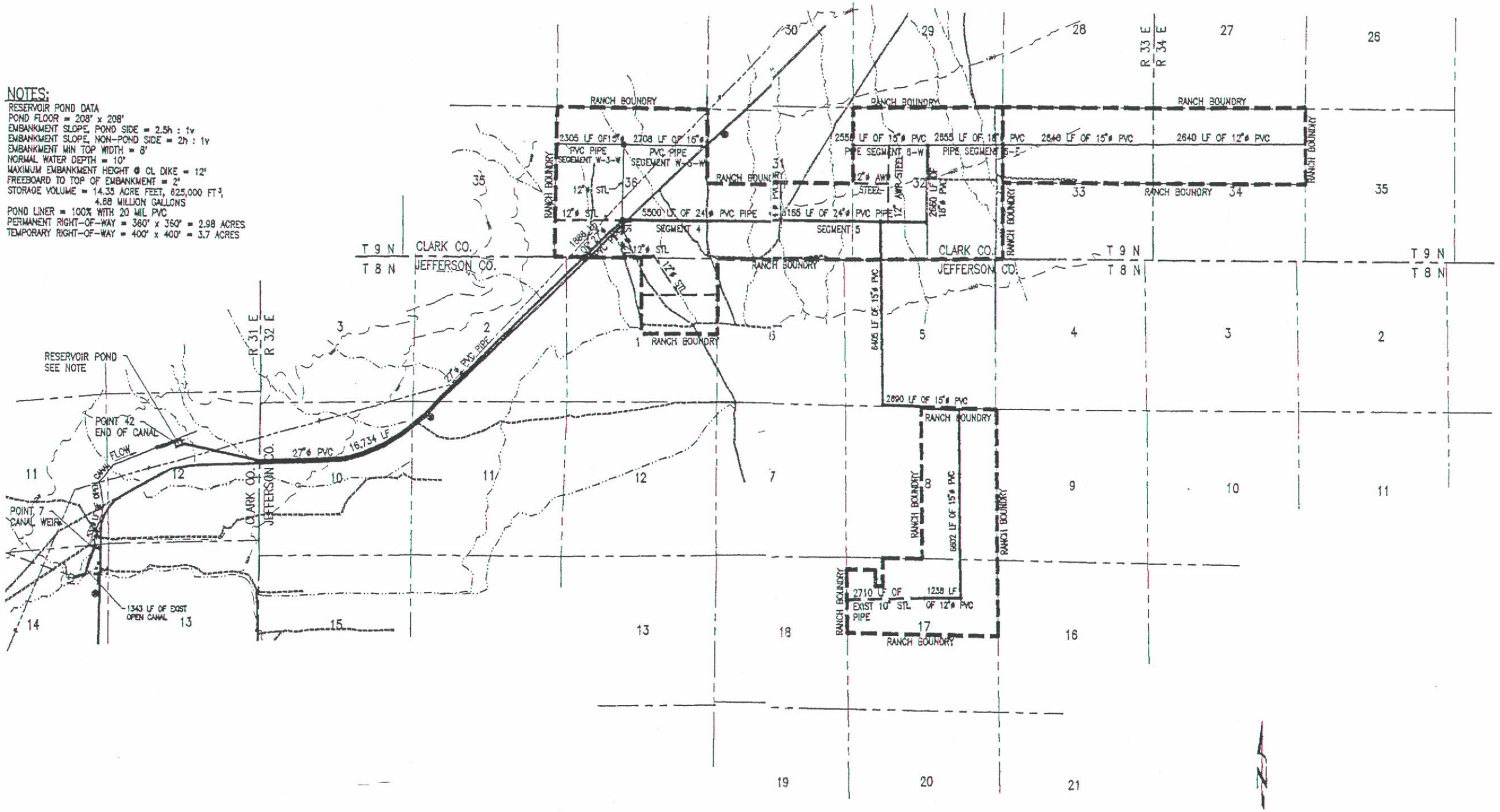
Public Lands (Administered by Bureau of Land Management) .....

Oregon & California Lands (O&C Lands) NONE

Indian Lands or Reservations ..... NONE

Military Reservations and Withdrawals NONE

NOTES:
RESERVOIR POND DATA
POND FLOOR = 208' x 208'
EMBANKMENT SLOPE, POND SIDE = 2.5h : 1v
EMBANKMENT SLOPE, NON-POND SIDE = 2h : 1v
EMBANKMENT MIN TOP WIDTH = 8'
NORMAL WATER DEPTH = 10'
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FREEBOARD TO TOP OF EMBANKMENT = 2'
STORAGE VOLUME = 14.35 ACRE FEET, 625,000 FT³,
4.68 MILLION GALLONS
POND LINER = 100% WITH 20 MIL PVC
PERMANENT RIGHT-OF-WAY = 360' x 360' = 2.98 ACRES
TEMPORARY RIGHT-OF-WAY = 400' x 400' = 3.7 ACRES




ATTACHMENT 1
SITE PLAN
BIRCH CREEK RANCH

2000 0' 2000 4000 6000
SCALE IN FEET

ACAD PLOT SCALE 1:4000

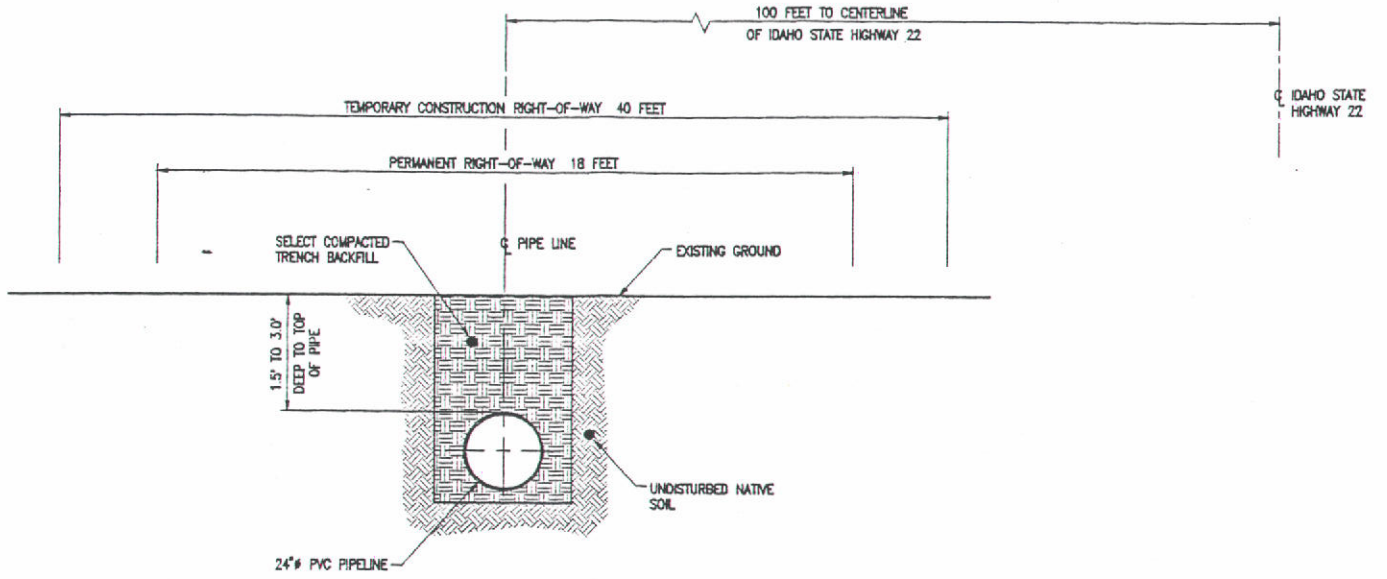
| NO | REVISIONS | DATE | DRAWN | CHECKED | APPROVED |
|---|---|---|---|---|---|
| | | JAN. 1997 | SB | SB | TSS |

BIRCH CREEK RANCHES
TED SORENSON

ATTACHMENT 1
SITE PLAN


SORENSON ENGINEERING, P.A.
CONSULTING ENGINEERS
IDAHO FALLS, IDAHO VANCOUVER, WASHINGTON

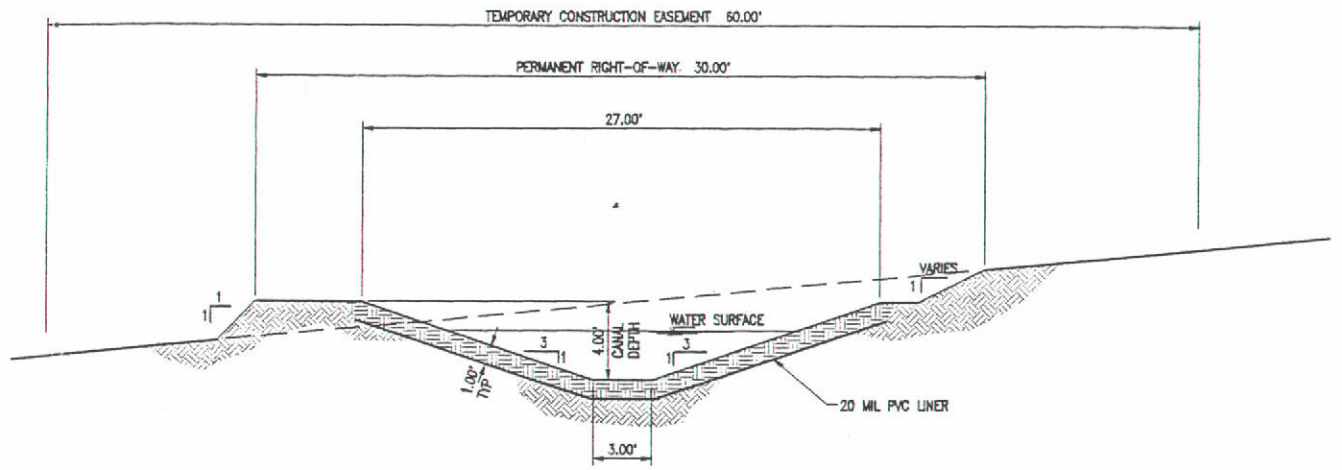

SCALE: NOTED
Drawing No.: SITE 1997
SHEET NO.: 1




## FIGURE 3

TYPICAL NEW PIPELINE
SECTION IN BLM RIGHT-OF-WAY

3' 0' 3' 6' 9'
SCALE IN FEET

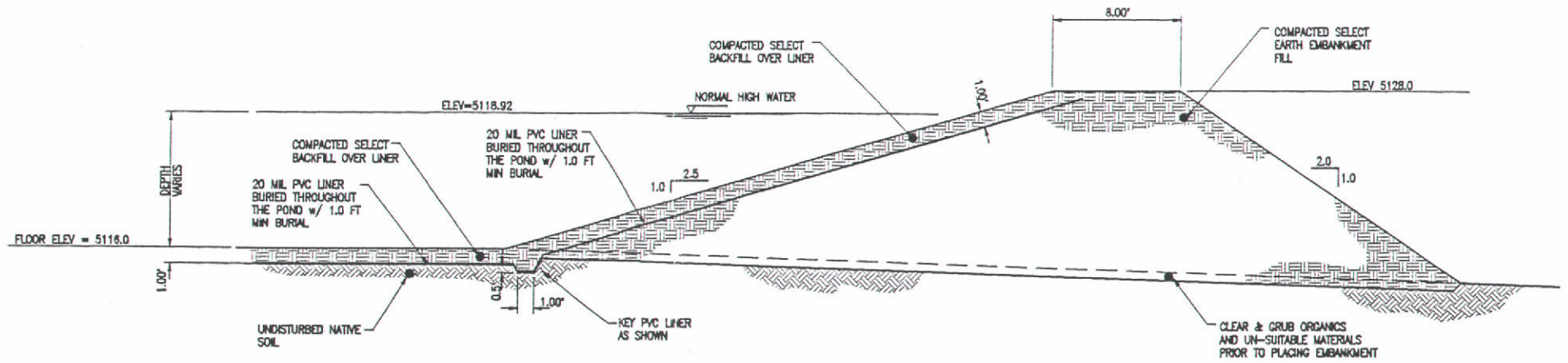



## FIGURE 1

OPEN CANAL DETAIL

5 0' 5 10 15
SCALE IN FEET

NOTES
DITCH TO HAVE 20 MIL PVC LINER BURIED 1.0 FEET MINIMUM.
DITCH SLOPE = 0.0001, BEGIN DITCH ELEV = 5127.0 (WATER SURFACE)
END OF DITCH ELEV = 5126.0 (WATER SURFACE)
AVERAGE DITCH VELOCITY = 1.0 ft/sec




## FIGURE 2

INLET POND EMBANKMENT DETAIL

5 0' 5 10 15
SCALE IN FEET

NOTES:
RESERVOIR POND DATA
POND FLOOR = 208' x 208'
EMBANKMENT SLOPE, POND SIDE = 2.5h : 1v
EMBANKMENT SLOPE, NON-POND SIDE = 2h : 1v
EMBANKMENT MIN TOP WIDTH = 8'
NORMAL WATER DEPTH = 10'
MAXIMUM EMBANKMENT HEIGHT @ CL DIKE = 12'
FREEBOARD TO TOP OF EMBANKMENT = 2'
STORAGE VOLUME = 14.35 ACRE FEET, 625,000 FT$^3$,
4.68 MILLION GALLONS
POND LINER = 100% WITH 20 MIL PVC
PERMANENT RIGHT-OF-WAY = 360' x 360' = 2.98 ACRES
TEMPORARY RIGHT-OF-WAY = 400' x 400' = 3.7 ACRES

| REV LTR | REVISIONS |
|---|---|
| A | REVISED FIGURE 1, 2 & 3 TO REFLECT THE CATALOG CUT SHEET OF THE PIPELINE ROW & NEW BLM PIPELINE GRANT CORRIDOR. SEE 2-16-96 |

| | |
|---|---|
| DATE | JAN 1996 |
| DRAWN | SPB |
| CHECKED | SPB |
| APPROVED | TSS |
| SIGNED | TSS |

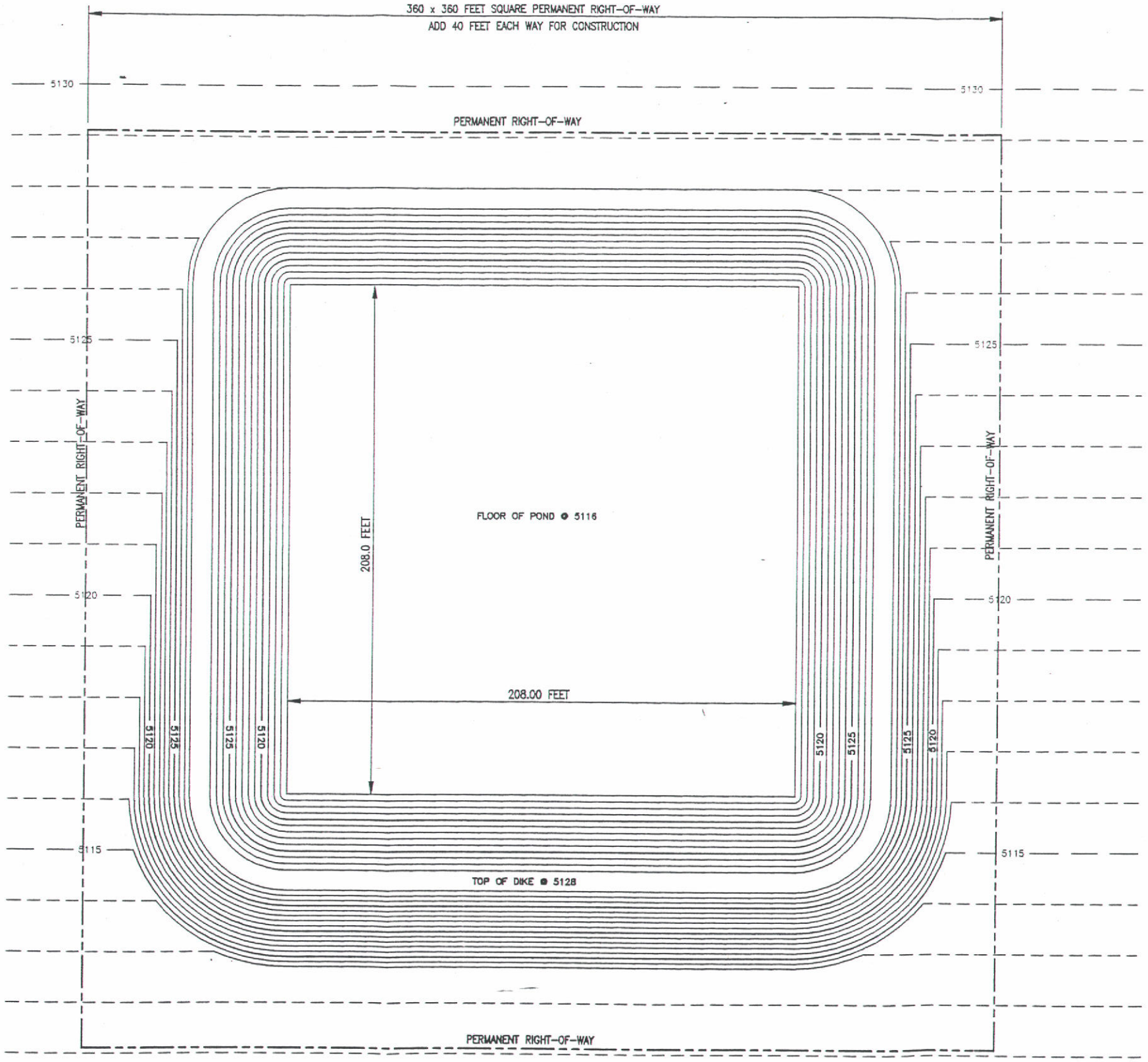
BIRCH CREEK RANCHES
TED SORENSON

ATTACHMENT 2
FIGURE 1, 2, & 3

SORENSON ENGINEERING, P.A.
CONSULTING ENGINEERS
IDAHO FALLS, IDAHO VANCOUVER, WASHINGTON

SCALE: NOTED
DRAWING NO.: ATTACH_2
SHEET NO.: 2

ACAD PLOT SCALE 1:10




INLET POND PLAN

## NOTES:

RESERVOIR POND DATA
POND FLOOR = 208' x 208'
EMBANKMENT SLOPE, POND SIDE = 2.5h : 1v
EMBANKMENT SLOPE, NON-POND SIDE = 2h : 1v
EMBANKMENT MIN TOP WIDTH = 8'
NORMAL WATER DEPTH = 10'
MAXIMUM EMBANKMENT HEIGHT @ CL DIKE = 12'
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STORAGE VOLUME = 14.35 ACRE FEET, 625,000 $FT^3$,
4.68 MILLION GALLONS
POND LINER = 100% WITH 20 MIL PVC
PERMANENT RIGHT-OF-WAY = 360' x 360' = 2.98 ACRES
TEMPORARY RIGHT-OF-WAY = 400' x 400' = 3.7 ACRES

Site Volume Table: Unadjusted

| Site | Stratum | Surf1 | Surf2 | Cut yards | Fill yards | Net yards | Method |
|---|---|---|---|---|---|---|---|
| birch | st-2 | e-2 | e-3 | 10318 | 8350 | 1968 (C) | Tin Sub |

50 0' 50 100 150
SCALE IN FEET

| REV LTR | REVISIONS | DATE |
|---|---|---|
| A | ADDED BELL BLOCK SPB 5-10-96 | |

DATE MAR 1996
DRAWN SPB
DESIGNED SPB
APPROVED TSS
CHECKED TSS

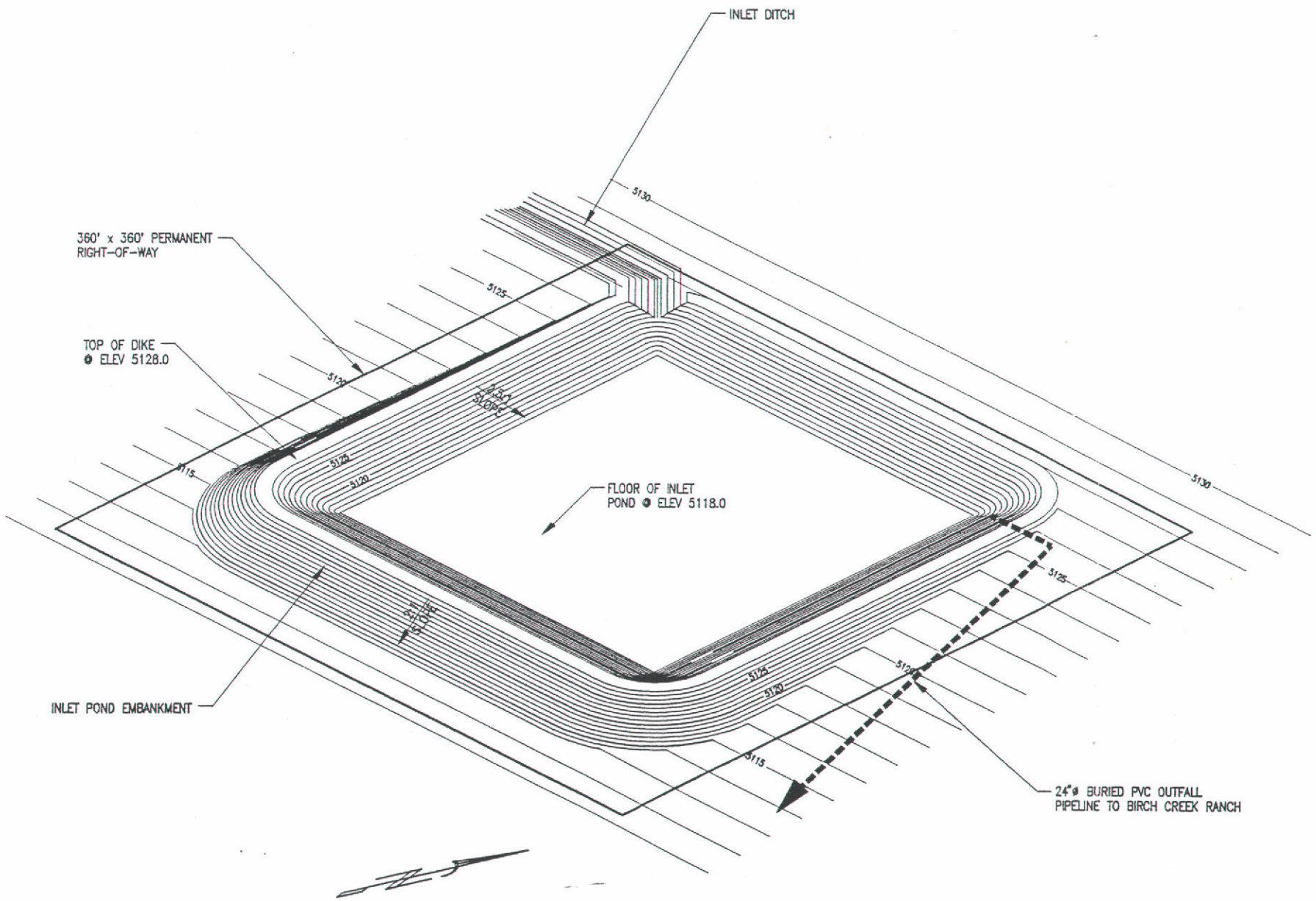
BIRCH CREEK RANCHES
TED SORENSON

ATTACHMENT 3
BIRCH CREEK RANCH INLET POND PLAN

SORENSON ENGINEERING, P.A.
CONSULTING ENGINEERS
IDAHO FALLS, IDAHO VANCOUVER, WASHINGTON

SCALE NOTED
DRAWING NO. ATTACH_3
SHEET NO. 3

ACAD PLOT SCALE 1:50




BIRCH CREEK INLET POND
ISOMETRIC VIEW

NOT TO SCALE

NOTES:

RESERVOIR POND DATA
POND FLOOR = 208' x 208'
EMBANKMENT SLOPE, POND SIDE = 2.5h : 1v
EMBANKMENT SLOPE, NON-POND SIDE = 2h : 1v
EMBANKMENT MIN TOP WIDTH = 8'
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POND LINER = 100% WITH 20 MIL PVC
PERMANENT RIGHT-OF-WAY = 360' x 360' = 2.98 ACRES
TEMPORARY RIGHT-OF-WAY = 400' x 400' = 3.7 ACRES

| REVISIONS | | | |
|---|---|---|---|
| REV LTR | | | |

DATE MAR 1996
DRAWN SB
CHECKED SB
APPROVED TSS
DRAWER TSS

BIRCH CREEK RANCHES
TED SORENSON

BIRCH CREEK RANCH INLET POND
ATTACHMENT 4
ISOMETRIC VIEW

SORENSON ENGINEERING, P.A.
CONSULTING ENGINEERS
IDAHO FALLS, IDAHO VANCOUVER, WASHINGTON

SCALE NOTED

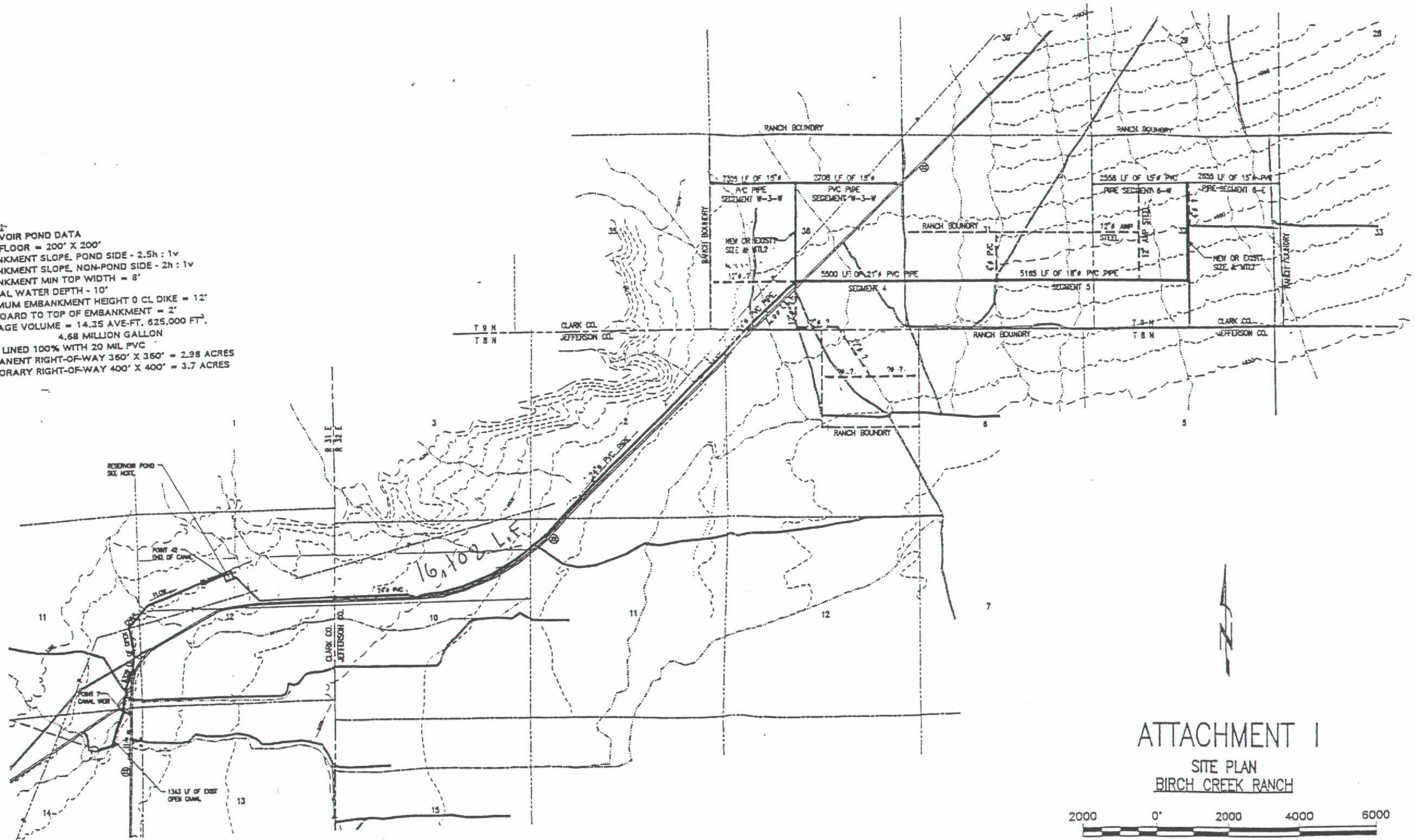
DRAWING NO. ATTACH 4

SHEET NO. 4

ACAD PLOT SCALE 1=50

Exhibit A
IDI-31560 and IDI-31560-01
April 10, 1996
Page 1 of 1

NOTES:-
RESERVOIR POND DATA
POND FLOOR = 200' X 200'
EMBANKMENT SLOPE, POND SIDE - 2.5h : 1v
EMBANKMENT SLOPE, NON-POND SIDE - 2h : 1v
EMBANKMENT MIN TOP WIDTH = 8'
NORMAL WATER DEPTH - 10'
MAXIMUM EMBANKMENT HEIGHT 0 CL DIKE = 12'
FREEBOARD TO TOP OF EMBANKMENT = 2'
STORAGE VOLUME = 14.35 AVE-FT, 625,000 FT³,
4.68 MILLION GALLON
POND LINED 100% WITH 20 MIL PVC
PERMANENT RIGHT-OF-WAY 360' X 360' = 2.98 ACRES
TEMPORARY RIGHT-OF-WAY 400' X 400' = 3.7 ACRES




ATTACHMENT I
SITE PLAN
BIRCH CREEK RANCH

2000 0' 2000 4000 6000
SCALE IN FEET

SORENSON ENGINEERING, P.A.
CONSULTING ENGINEERS
IDAHO FALLS, IDAHO VANCOUVER, WASHINGTON

BIRCH CREEK RANCHES
TED SORENSON

ATTACHMENT I
SITE PLAN

| | |
|---|---|
| DATE | JAN. 1996 |
| DRAWN | SB |
| CHECKED | SB |
| APPROVED | TSS |
| ENGINEER | TSS |

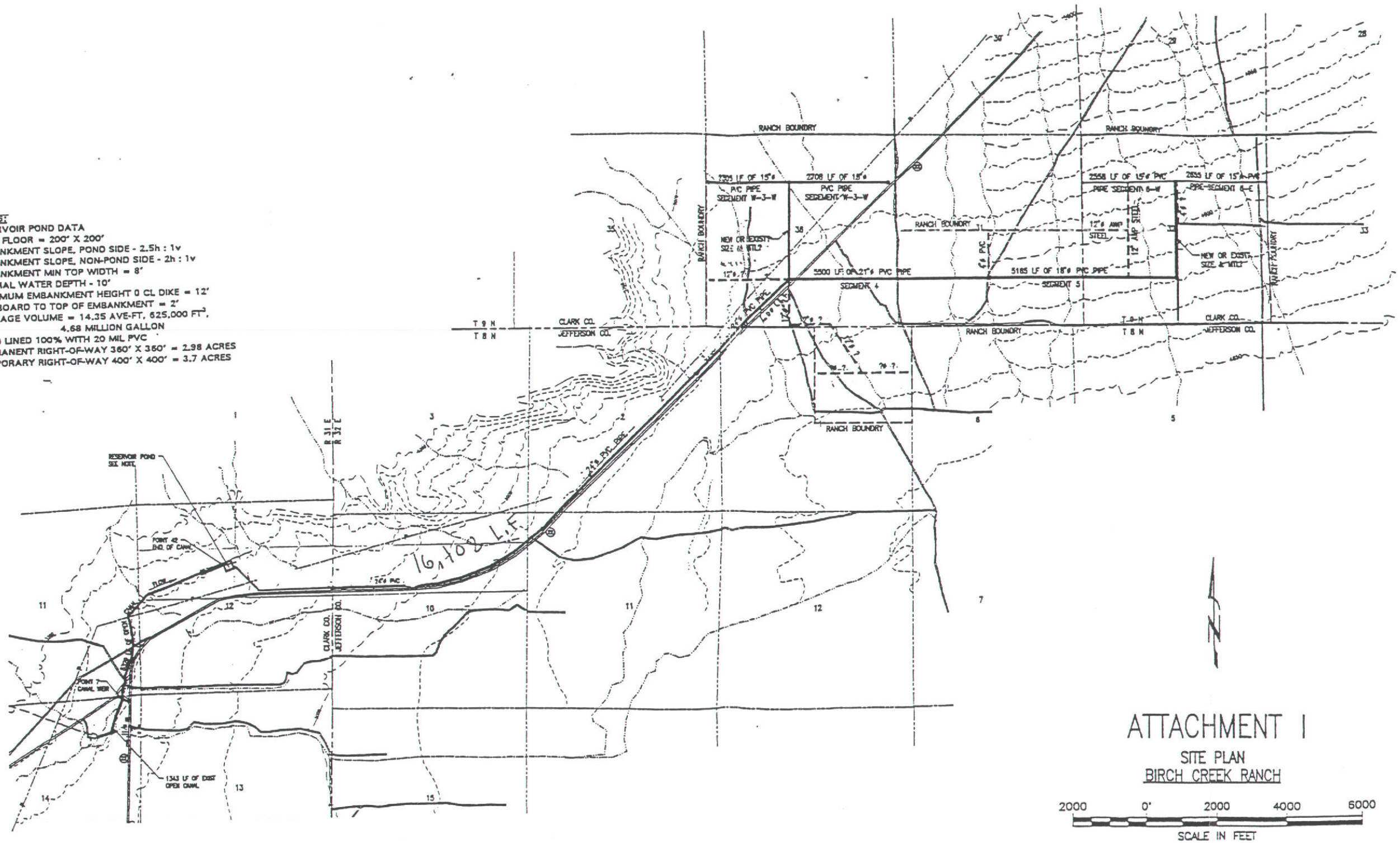
| REV LTR | REVISIONS |
|---|---|
| A | [illegible] |

SCALE: NOTED
DRAWING NO.: ATTACH 1
SHEET NO.: 1

ACAD PLOT SCALE 3000

Exhibit A
IDI-31560 and IDI-31560-01
April 10, 1996
Page 1 of 1

NOTES:
RESERVOIR POND DATA
POND FLOOR = 200' X 200'
EMBANKMENT SLOPE, POND SIDE - 2.5h : 1v
EMBANKMENT SLOPE, NON-POND SIDE - 2h : 1v
EMBANKMENT MIN TOP WIDTH = 8'
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4.68 MILLION GALLON
POND LINED 100% WITH 20 MIL PVC
PERMANENT RIGHT-OF-WAY 360' X 360' = 2.98 ACRES
TEMPORARY RIGHT-OF-WAY 400' X 400' = 3.7 ACRES




# ATTACHMENT 1
SITE PLAN
BIRCH CREEK RANCH

2000 0' 2000 4000 6000
SCALE IN FEET

| REVISIONS | | | |
|---|---|---|---|
| REV LTR | A | | |
| DATE | JAN. 1996 | | |
| DRAWN | SB | SB | |
| CHECKED | | TSS | |
| APPROVED | | TSS | |

BIRCH CREEK RANCHES
TED SORENSON

ATTACHMENT 1
SITE PLAN

SORENSON ENGINEERING, P.A.
CONSULTING ENGINEERS
IDAHO FALLS, IDAHO VANCOUVER, WASHINGTON

SCALE: NOTED
DRAWING NO. ATTACH 1
SHEET NO. 1

ACAD PLOT SCALE 3000

Transfer No. _____

# STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0091 Decreed to Edward M. Kaufman
      in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
      dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice Pass Creek ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks Birch Creek
4. Date or priority May 1, 1901
5. Water is used for the following purpose:
   amount .5 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right .5 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0067, 32-0090, 32-0093, 32-0068, 32-0089, 32-0069, 32-0092, and 32-0061.

FROM: KEITH C. WILSON 27 APRIL 1988
TO: FILE 32-0091/0092/0093, & TRANSFER # 2165

IN RESEARCHING WATER RIGHTS 32-0091/0092/0093 A POSSIBLE ERROR HAS BEEN FOUND IN THE INTERPRETING THE 1937 JUDGEMENT CORRECTING A CLERICAL ERROR FOR THE 1922 AGNES RENO VS. J.R. RICHARDS DECREE.

CURRENTLY THE RIGHTS ARE CODED AS FOLLOWS:

32-0091 (0.5 CFS) PASS CREEK, 10 MAY 1901
32-0092 (2.5 CFS) BIRCH CREEK, 10 MAY 1888
32-0093 (1.6 CFS) BIRCH CREEK, 10 MAY 1886

PROPOSED CORRECTION ONLY FOR RIGHT 32-0092:

32-0092 (2.5 CFS) PASS CREEK, 10 MAY 1888

IN CORRECTING THE DECREE THE JUDGEMENT INCLUDED THE PARAGRAPH THAT DESCRIBED THE THE RIGHTS BUT A COMMA WAS USED AFTER THE 1888 PRIORITY OF 32-0092 WHICH WOULD LEAD ONE TO BELIEVE THAT THE SOURCE FOR BOTH 32-0093 AND 32-0092 SHOULD BE CHANGED TO BIRCH CREEK. HOWEVER, IN READING THE COMPLETE JUDGEMENT ONLY RIGHT NUMBER 32-0093 WAS MENTIONED AND, THEREFORE, RIGHT 32-0092 SHOULD BE CHANGED AND CODED CORRECTLY TO REFLECT THE SOURCE AS PASS CREEK.

IT SHOULD ALSO BE NOTED THAT TRANSFER #2165 APPEARS TO HAVE BEEN COMPLETED USING BIRCH CREEK AS THE INCORRECT SOURCE FOR 32-0091, AND 32-0092.

ATTACHED IS A COPY OF THE ORIGINAL PARAGRAPH FROM THE 1922 DECREE AND A COPY OF THE JUDGEMENT CORRECTING THE CLERICAL ERROR.

Form 222a
6/78

HWJ 4-20-89

# STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES
# TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: HAROLD JONES

1. Right number 32-6067 etc Applicant Birch Creek Ranches
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☐ Other _____
4. Check:
   a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
   b. ☒ Description of original point of diversion.
   c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
   a. ☒ All of right.
   b. ☐ Part of right *(NOTE! Part B should be filled in only if part of the right is owned by the applicant).*
   c. ☒ Check description of point(s) of diversion.
   d. ☒ Check description of place of use.
   e. ☐ Check map (shows p.d. and p.u. after transfer). Request
   f. ☒ Check for correct signature, notarization, and fee.
   g. ☐ Check proof of ownership of right &/or land from which water is transferred.
   h. ☒ Check for expansion in use of right. Comments Need list of Corp. officers
   i. ☐ Check for existing water rights from same source, on land water is being transferred to.
      Right number(s) _____
   j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
      If yes, what district? 32-D Birch Creek Send Copy to Watermaster

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on 4-26-89 Received on 5-11-89
2. Is transfer published correctly? ☑ Yes ☐ No
3. Protest received? ☑ Yes ☐ No

P.O.P. 5-22-89 - 7-3-89

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____
4. By _____ Date _____

* *All uses within Watermaster Districts require special conditions.*

Copy Scott Hall

Copy Roberta

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

RECEIVED
APR 16 1990
Department of Water Resources
Eastern District Office

April 12, 1990

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO
P. O. Box 50130
Idaho Falls, ID 83405

Dear Mr. Foster:

RE: Application for Transfer Nos. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068, and 32-0089
Birch Creek Ranches, Inc.

On April 9, 1990, the department received the request for the taking of stenographic notes by a court reporter. This privilege is allowed under Rule 9,21 of the Rules and Regulations of Practice and Procedure. Note that the rule also states that the party requesting the report will bear the expense of the court reporter and provide the department a copy of the transcript fee of charge.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Water Allocation Bureau

LGS:rf

c: Breck Barton, Esq.
George Peterson, Esq.
John D. Hansen, Esq.
Jim DeMordaunt
Jerry Rigby, Esq.
Alan E. Barber, Esq.
Mac and Betty Wagoner
H. Margery Bare
Estate of Ben Wilding
Eastern Region

3. In view of possible complications and conflicts that might develop between the water rights of D & D Enterprises, Inc., and the water rights the subject of the above captioned, D & D has asked that the Department of Water Resources consider this writing as an application to intervene in the formal hearing and further that D & D be allowed to appear individually and file its own responsive pleadings, with all of the same authorities and rights as if D & D had timely made a filing prior to the informal hearing referred to above.

4. Pursuant to the requests of our client, as heretofore detailed, the Department's consideration of D & D's request and the granting of same, ex parte, will be most sincerely appreciated.

5. Further upon the granting of the request of D & D to intervene and participate in the anticipated upcoming formal hearing, D & D request that they be given a reasonable period of time to prepare, file appropriate pleadings, and interview pertinent witnesses for the anticipated formal hearing.

Your immediate consideration and response to the matters the subject of this writing, as heretofore detailed, will be most sincerely appreciated. Best regards.

Very truly yours,

PETERSEN, MOSS, OLSEN,
MEACHAM & CARR

George C. Petersen, Jr.

GCP/kw
cc: Idaho Department of Water Resources (Idaho Falls)
Breck Barton, Esq.
John D. Hansen, Esq.
Kent W. Foster, Esq.
1974L

**TRIBUNE PUBLISHING COMPANY, INC.**
The Lewiston Morning Tribune
505 C St., P.O. Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 051189 INVOICE No. L00181844

Account No. 44660

Description 61844LEGAL

Times 2 Lines 79

Tab Lines

## LEGAL ADVERTISING
### INVOICE

SOLD TO:

DEPT. OF WATER RESOURCES
150 SHOUP AVE. SUITE 15
IDAHOFALLS
I 83402

$ 79.00

NOTICE:This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
*Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only.*

61844

**Legal Notice**
**NOTICE OF PROPOSED CHANGE OF WATER RIGHTS**

Notice is hereby given that Birch Creek Ranches, Inc., Idaho Falls, Idaho, have applied to the Department of Water Resources for a change in the points of diversion and places of use of the waters of Birch Creek tributary to sinks and are recorded in the case of Agnes B. Reno, et al. -vs- J.R. Richards, et al, dated September 6, 1922 in 9th District Court, County of Fremont, and recorded as follows:

**32-0067** decreed to Wood Livestock Co. (T 2165), priority 9-10-1882 for the diversion of 3.20 cfs.

**32-0090** decreed to C.B. Watts (T 2165), priority 5-10-1886 for the diversion of 1.60 cfs.

**32-0093** decreed to Edward M. Kaufman (T 2165), priority 5-10-1886 for 1.60 cfs.

**32-0068** decreed to Wood Livestock Co. (T 2165), priority 5-10-1887 for 3.20 cfs.

**32-0089** decreed to C.B. Watts (T 2165), priority 5-10-1888 for 2.50 cfs.

**32-0069** decreed to Wood Livestock Co. (T 2165), priority 5-10-1888 for 3.20 cfs.

**32-0092** decreed to Edward M. Kaufman (T 2165), priority 5-10-1888 for 2.50 cfs.

**32-0061** decreed to Jerome F. Reno (T 256 and 2165), priority 5-10-1888 for 0.40 cfs.

**32-0091** decreed to Edward M. Kaufman (T 2165) from Pass Creek tributary to Birch Creek, priority 5-01-1901 for 0.50 cfs.

The above rights are diverted within the NWNE, NESE, SENE, Sec. 24, NENE, Sec. 14, NESW, Sec. 11, T. 10N. R. 29E; SWSW, Sec. 29, NWNW, Sec. 32, T. 10N, R. 30E, B.M., Clark County, for the irrigation of 960 acres form Apr. 1 to Nov. 1 within W½NW¼, SENW, NESW, W½SE¼, SESE, Sec. 11, SWSW, Sec. 12, W½NW¼, NWSW, Sec. 13, E½NE¼, Sec. 14, SESE, Sec. 24, NENE, Sec. 25, T. 10N, R. 29E; SWNW, W½SW¼, SESW, SWSE, Sec. 19, SWSW, Sec. 29, NE¼, N½NW¼, SENW, Sec. 30, W½E½, N½NW¼, SENW, NESW, Sec. 32, T. 10N, R. 30E.

**TO BE CHANGED AS FOLLOWS**

The water will be diverted within the SESW, Sec. 34, T.9N, R. 30E, B.M., Clark County, and used to irrigate 960 acres within the SESW, W½SE¼, SESE, Sec. 12, T. 8N, R. 31E.; N½SW¼, SE¼, Sec. 10, S½NW¼, SW¼, Sec. 11, N½NW¼, Sec. 14, E½SE¼, Sec. 1, T. 8N, R. 32E; E½SW¼, W½SE¼, Sec. 6, T. 8N, R. 33 E.B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402, on or before May 22, 1989.

R. KEITH HIGGINSON
Director

RB

# AFFIDAVIT OF PUBLICATION

RECEIVED
MAY 17 1989
Department of Water Resources
Eastern District Office

STATE OF IDAHO, ss.
County of Nez Perce

Sue Baumeister being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established paper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the

NOTICE OF PROPOSED CHANGE

attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 050489, WEEKS for 2 consecutive WEEKS, the first publication thereof being on the 050489, and the last publication thereof being on the 051189, and said NOTICE OF PROPOSED CHANGE was so published in the regular and entire issue of said newspaper and not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Sue Baumeister

SUBSCRIBED AND SWORN BEFORE ME THIS THE 12 day of May 1989

Sheral D. Lantz

Notary Public in and for the State of Idaho, residing at Lewiston, therein.

RECEIVED

MAY 12 1989

Department of Water Resources
Eastern District Office

# The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707

## LEGAL ADVERTISING INVOICE

| Amount Due |
|---|
| 89.40 |

| Account Name | Account Number |
|---|---|
| Idaho Department of Water Resources (Eastern) | #100564 |

| Address | City/State | Zip |
|---|---|---|
| 150 Shoup Avenue, Suite 15 | Idaho Falls, ID | 83402 |

| Ordered By | P.O. Number | Rate | Run Dates |
|---|---|---|---|
| Rita Bodell | | NT | 1989 May 4, 11 |

| Identification | Estimated Inches | Real Inches |
|---|---|---|
| Proposed Change of Water Rights | | |

Legal Number #2538

1 Number of Affidavits Requested

**NOTICE OF PROPOSED CHANGE OF WATER RIGHTS**

Notice is hereby given that Birch Creek Ranches, Inc., Idaho Falls, Idaho, have applied to the Department of Water Resources for a change in the points of diversion and places of use of the waters of Birch Creek tributary to sinks and are recorded in the case of Agnes B. Reno, et al. -vs- J.R. Richards, et al, dated September 6, 1922 in 9th District Court, County of Fremont, and recorded as follows:

**32-0067** decreed to Wood Livestock Co. (T 2165) priority 9-10-1882 for th diversion of 3.20 cfs.

**32-0090** decreed to C.B. Watts (T 2165), priority 5-10-1886 for the diversion of 1.60 cfs.

**32-0093** decreed to Edward M. Kaufman (T 2165), priority 5-10-1886 for 1.60 cfs.

**32-0068** decreed to Wood Livestock Co. (T2165), priority 5-10-1887 for 3.20 cfs.

**32-0089** decreed to C.B. Watts (T 2165), priority 5-10-1888 for 2.50 cfs.

**32-0069** decreed to Wood Livestock Co. (T 2165), priority 5-10-1888 for 3.20 cfs.

**32-0092** decreed to Edward M. Kaufman (T 2165), priority 5-10-1888 for 2.50 cfs.

**32-0061** decreed to Jerome F. Reno (T 256 and 2165), priority 5-10-1888 for 0.40 cfs.

**32-0091** decreed to Edward M. Kaufman (T 2165) from Pass Creek tributary to Birch Creek, priority 5-01-1901 for 0.50 cfs.

The above rights are diverted within the NWNE, NESE, SENE, Sec. 24, NENE, Sec. 14, NESW, Sec. 11, T. 10N, R. 29E; SWSW, Sec. 29, NWNW, Sec. 32, T. 10N, R. 30E, B.M., Clark County, for the irrigation of 960 acres from Apr. 1 to Nov. 1 within W1/2NW1/4, SENW, NESW, W1/2SE1/4, SESE, Sec. 11, SWSW, Sec. 12, W1/2NW1/4, NWSW, Sec. 13, E1/2NE1/4, Sec. 14, SESE, Sec. 24, NENE, Sec. 25, T. 10N, R.29E; SWNW, W1/2SW1/4, SESW, SWSE, Sec. 19, SWSW, Sec. 29, NE1/4, N1/2NW1/4, SENW, Sec. 30, W1/2E1/2, N1/2NW1/4, SENW, NESW, Sec. 32, T. 10N, R.30E.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the SESW, Sec. 34, T. 9N, R. 30E, B.M., Clark County, and used to irrigate 960 acres within the SESW, W1/2SE1/4, SESE, Sec. 12, T. 8N, R. 31E; N1/2SW1/4, SE1/4, Sec. 10, S1/2NW1/4, SW1/4, Sec. 11, N1/2NW1/4, Sec. 14, E1/2SE1/4, Sec. 1, T. 8N, R. 32E; E1/2SW1/4, W1/2SE1/4, Sec. 6, T. 8N, R. 33E. B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho 83402, on or before May 22, 1989.

R. KEITH HIGGINSON
Director

Pub. May 4, 11, 1989

2538

STATE OF IDAHO )
) ss.
COUNTY OF ADA )

Debbie Richards, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for 2 consecutive weekly ☐ consecutive daily ☐ single ☐ odd skip insertion(s) beginning with the issue of May 4, 19 89 and ending with the issue of May 11, 19 89

Debbie Richards

Subscribed and sworn to before me this 11th day of May, 19 89

Notary Public for Idaho, Residing at Boise, Idaho 12/93

SD-0601-2 Water Right Number: 31-07646

END OF DATA FIRST PAGE

| Office | Reg | Location | Type Description | Date |
|---|---|---|---|---|
| ECLERK | E | DRAWER1 | In Advertising | 07/14/97 |
| VAULT | C | SHELVES | Renumbered | 07/11/97 |
| ECLERK | E | HOLD | Protested | 04/28/97 |
| ECLERK | E | DRAWER1 | In Advertising | 03/31/97 |

RECEIVED
JUL 2 1 1997
Department of Water Resources
Eastern Region

(Enter=Cont) (GOLD4=Prev Scr) (GOLD5=Next Scr) (GOLD6=End of Data) (GOLD8=Exit)

7/17

Please file attached! Peter Anderson will be attorney on this matter.

Thanks
Dani

**NOTICE OF CORRECTION**

Notice is hereby given that Application Number 31-07646 filed by Birch Creek Ranches LLC for 17.00 cfs of water in Birch Creek tributary of sinks, was incorrectly numbered.

The Department of Water Resources should have listed this application in Basin 32 (Birch Creek Drainage). The new number assigned to this application will be Number 32-07252.

Any new protest against the granting of this application must be filed with the Idaho Department of Water Resources with a $25 filing fee at 900 N. Skyline Drive, Idaho Falls, ID 83402 on or before August 25, 1997.

Karl Dreher, Director

PUBLISH: August 7 and 14, 1997

# Affidavit of Publication

STATE OF IDAHO }
COUNTY OF TWIN FALLS } SS.

№ 29657

I, Emily McKnight being first duly sworn upon oath, depose and say that I am Principle Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for Two consecutive weeks,

commencing with the issue dated August 7, 19 97,

and ending with the issue dated August 14, 19 97.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 14th day of Aug in the year of 1997, before me,

a Notary Public, personally appeared Emily McKnight,

known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Irene R. Fettman

Notary Public for Idaho
Residing at Twin Falls, Idaho.
My commission expires: 5/19/2000

# Proof of Publication

# The Post Register

State of Idaho
County of Bonneville

I, S. Bob Bright or Robert Park, first being duly sworn, depose and say: That I am the Production Supervisor or Asst. Prod. Supervisor of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post Register, a newspaper of general circulation, published daily at Idaho Falls, Idaho; said Post Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the First day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than twelve consecutive months and said Post Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post Register for two consecutive (days) weeks, first publication having been made on the 7th day of August, 1997, last publication having been made on the 14th day of August, 1997, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

S Bob Bright

Subscribed and sworn to before me, this 20th day of August , 1997

Patricia O'Malley
Notary Public

My commission expires January 3, 2003

PATRICIA O'MALLEY
NOTARY PUBLIC
STATE OF IDAHO

**NOTICE OF CORRECTION**

Notice is hereby given that Application Number 31-07646 filed by Birch Creek Ranches LLC for 17.00 cfs of water in Birch Creek tributary of sinks, was incorrectly numbered.

The Department of Water Resources should have listed this application in Basin 32 (Birch Creek Drainage). The new number assigned to this application will be Number 32-07252.

Any new protest against the granting of this application must be filed with the Idaho Department of Water Resources with a $25 filing fee at 900 N. Skyline Drive, Idaho Falls, ID 83402 on or before August 25, 1997.

Karl Dreher
Director

Published: August 7, 14, 1997

RECEIVED
AUG 25 1997
Department of Water Resources
Eastern Region

**TRIBUNE PUBLISHING COMPANY, INC.**
The Lewiston Morning Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 08/14/97 INVOICE NO. 150955

Account No. 446600

Description 150955NOTICEOFCORRECTI

Times 2 Lines 22

Tab. Lines

$ 30.25

## LEGAL ADVERTISING INVOICE

SOLD TO: IDAHO DEPT. OF WATER RESOURCES
900 N. SKYLINE
IDAHO FALL ID 83402

RB

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
**Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.**

---

150955

NOTICE OF CORRECTION

Notice is hereby given that Application Number 31-07646 filed by Birch Creek Ranches LLC for 17.00 cfs of water in Birch Creek tributary of sinks, was incorrectly numbered.

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Karl Dreher
Director

Published statewide and in the Post Register on August 7 & 14, 1997.

RECEIVED
AUG 1 8 1997
Department of Water Resources
Eastern Region

# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 150955NOTICEOFC attached hereto and which is made a part of this affadavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 08/07, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 08/07/97, and the last publication thereof being on the 08/14/97, and said 150955NOTICEOFC was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Karen J. Lewis

SUBSCRIBED AND SWORN BEFORE ME THIS THE 15

day of August 1997

Ray Paul

Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires 7/1/03

**TRIBUNE PUBLISHING COMPANY, INC.**
The Lewiston Morning Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 08/14/97 INVOICE NO. 150955

Account No. 446600

Description 150955NOTICEOFCORRECTI

RB

# LEGAL ADVERTISING INVOICE

Times 2 Lines 22

Tab. Lines

SOLD TO: IDAHO DEPT. OF WATER RESOURCES
900 N. SKYLINE
IDAHO FALL ID 83402

$ 30.25

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
**Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.**

---

150955

NOTICE OF CORRECTION

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Karl Dreher
Director

Published statewide and in the Post Register on August 7 & 14, 1997.

# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 150955NOTICEOFC attached hereto and which is made a part of this affadavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 08/07, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 08/07/97, and the last publication thereof being on the 08/14/97, and said 150955NOTICEOFC was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

SUBSCRIBED AND SWORN BEFORE ME THIS THE

day of 1997

Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires

ROSHOLT, ROBERTSON & TUCKER
Chartered
ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
JOHN K. SIMPSON
PATRICK D. MADIGAN
TIMOTHY J. STOVER
NORMAN M. SEMANKO

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

Boise Office
1221 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

RECEIVED
JUL 28 1997
Department of Water Resources

July 25, 1997

Karl J. Dreher, Director
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402

RE: WATER RIGHT APPLICATION #31-07646
WITHDRAWAL OF PROTEST

Dear Director Dreher:

Please be advised that Idaho Power Company hereby withdraws its protest to the above-referenced application, which was submitted by letter from this office dated April 21, 1997.

Very truly yours,

JAMES C. TUCKER

cc: Birch Creek Ranches
c/o Kent Foster

Roger Fuhrman
Idaho Power Company

RECEIVED
MAY 23 1997
Department of Water Resources
Eastern Region

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
330 Shoup Avenue, Third Floor
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

COPY

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR EXTENTION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES |

COMES NOW the applicant, Birch Creek Ranches, L.L.C., and hereby asserts a blanket disqualification for cause of all employees of IDWR under IDAPA 37.01.01, Rule 412, of the Rules of Procedure of the Department of Water Resources, and requests appointment of an independent hearing officer for the purposes of hearing and deciding the above entitled contested matter. To applicant's knowledge no hearing officer has yet been assigned to hear the protests to applicant's pending application for extension.

Respectfully submitted this 22 day of May, 1997.

Kent W. Foster, Esq.
Holden, Kidwell, Hahn & Crapo, P.L.L.C.

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
330 Shoup Avenue, Third Floor
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

COPY

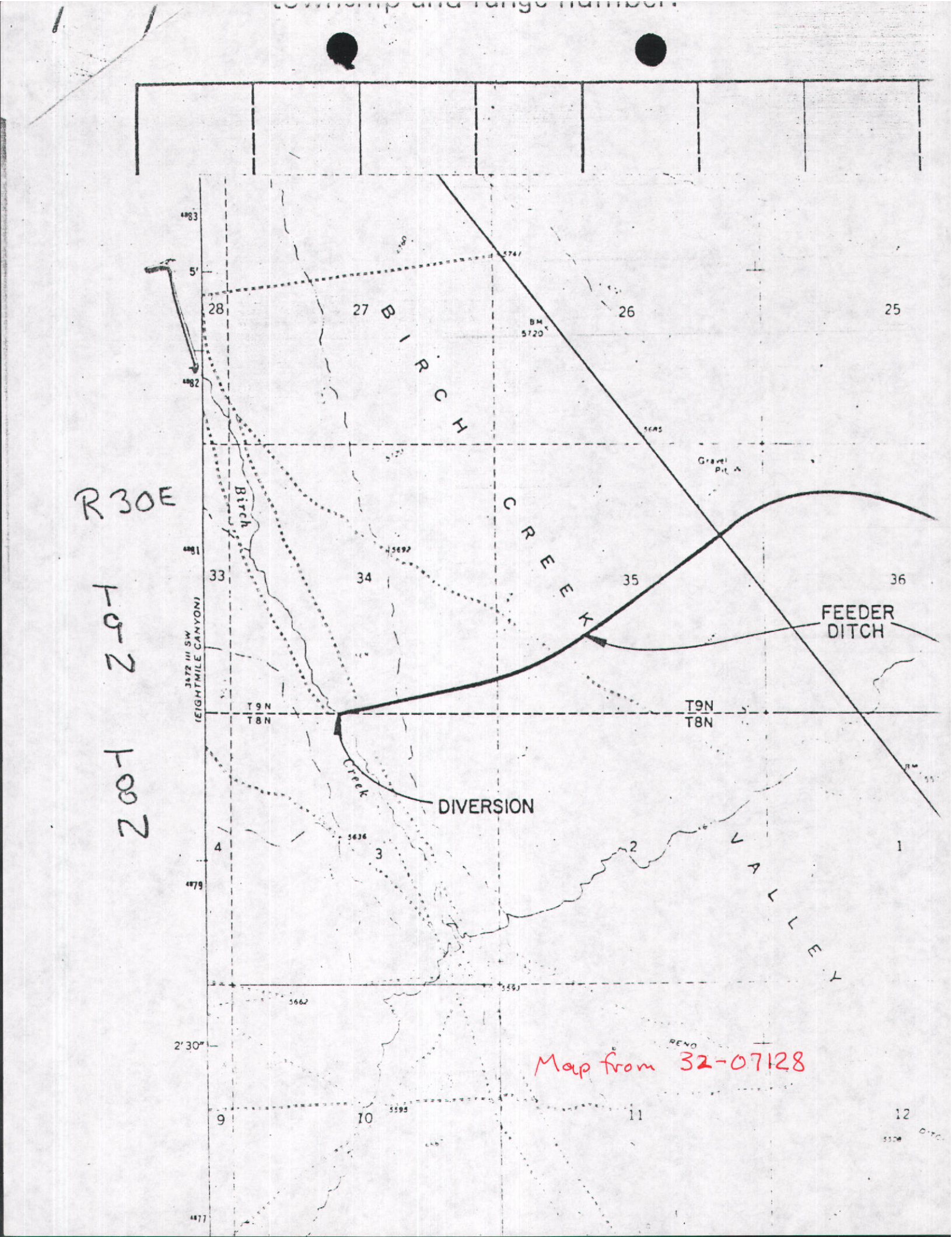
BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR PERMIT NO. 31-07646 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES |

COMES NOW the applicant, Birch Creek Ranches, L.L.C., and hereby asserts a blanket disqualification for cause of all employees of IDWR under IDAP 37.01.01, Rule 412, of the Rules of Procedure of the Department of Water Resources, and requests appointment of an independent hearing officer for the purposes of hearing and deciding the above entitled contested matter. To applicant's knowledge no hearing officer has yet been assigned to hear the protests to applicant's pending application for permit.

Respectfully submitted this 22 day of May, 1997.

Kent W. Foster, Esq.
Holden, Kidwell, Hahn & Crapo, P.L.L.C.


township and range number.
R30E
T9N
T8N
BIRCH
CREEK
Birch
Creek
FEEDER
DITCH
DIVERSION
T9N
T8N
VALLEY
Gravel Pit A
BM 5720
5741
5685
5692
5636
5593
5662
5595
5508
28
27
26
25
33
34
35
36
4
3
2
1
9
10
11
12
4983
4982
4981
4979
4977
5'
2'30"
3472 III SW
(EIGHTMILE CANYON)
RENO
Map from 32-07128

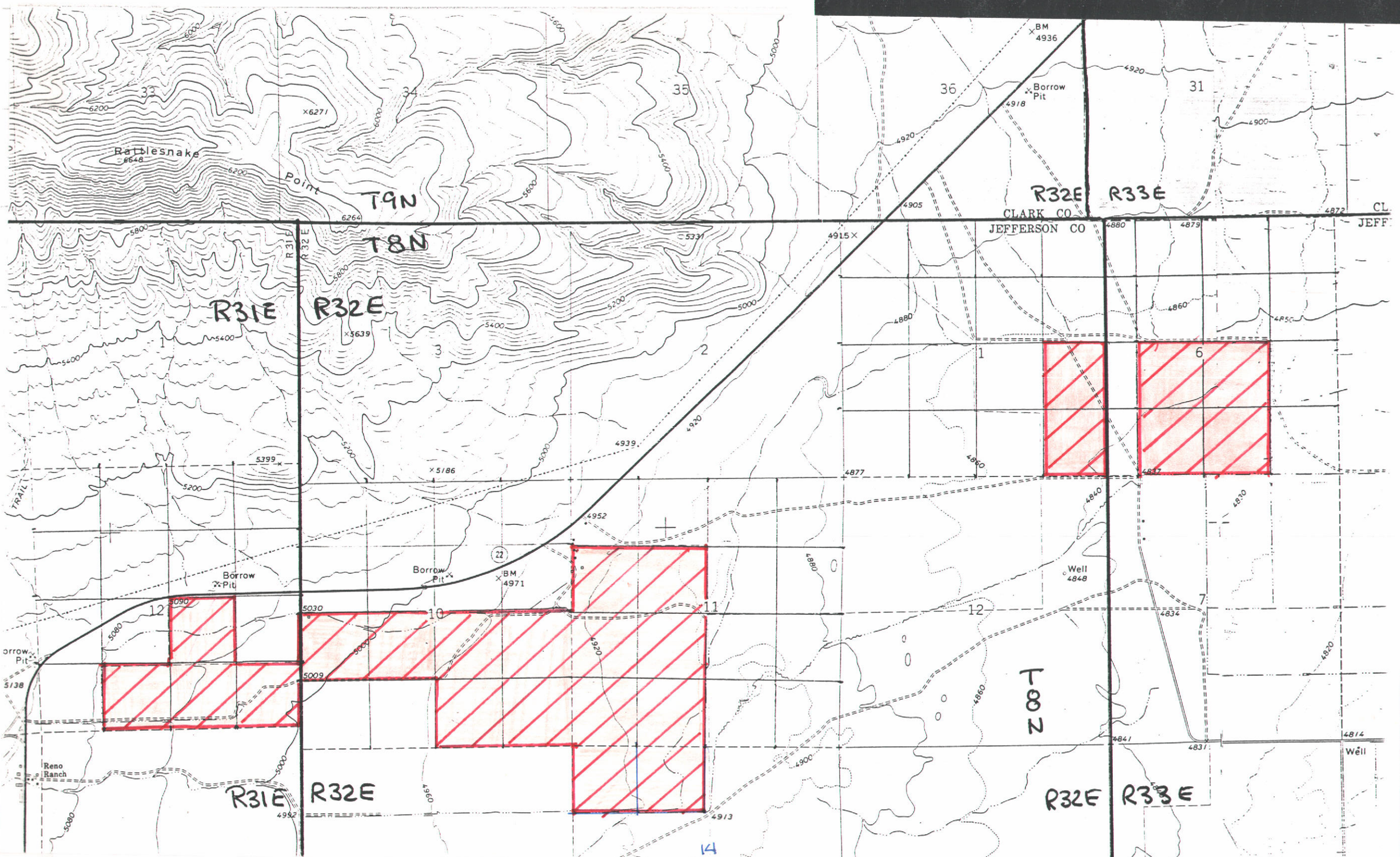
Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT



Water Right Number - 32-00091 Prefix Translation: WATER RIGHT Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** SIMMONS | WILLIAM T. | 1 - 2 - 3 - City- TERRETON State- ID Zip- 83450 Phone - |
| *** O - ORIGINAL OWNER *** KAUFMAN | EDWARD | 1 - 2 - 3 - City- State- Zip- Phone - |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/01/1901 | 15 EASTERN | D - DECREED | |

Source: PASS CREEK (Birch Creek)

Tributary: BIRCH CREEK

Point of Diversion — Stream Index (Blank if no Index Code)

| Twn | Rng | Sec | Tract | Lot | RFlg | County |
|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE SW | | (33) | CLARK |
| 10N | 29E | 14 | NE NE | | (33) | CLARK |
| 10N | 29E | 24 | NW NE | | (33) | CLARK |
| 10N | 29E | 24 | SE NE | | (33) | CLARK |
| 10N | 29E | 24 | NE SE | | (33) | CLARK |
| 10N | 29E | 30 | SW SW | | (33) | CLARK |
| 10N | 29E | 32 | NW NW | | (33) | CLARK |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 0.500 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 0.500 (0.48913) | | | (0.48913) | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT



Water Right Number - 32-00092 Prefix Translation: WATER RIGHT Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 -<br>2 -<br>3 -<br>City- TERRETON State- ID Zip- 83450<br>Phone - |
| *** O - ORIGINAL OWNER *** | | |
| KAUFMAN | EDWARD | 1 -<br>2 -<br>3 -<br>City- State- Zip-<br>Phone - |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE SW | | (33) | CLARK | |
| 10N | 29E | 14 | NE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NW NE | | (33) | CLARK | |
| 10N | 29E | 24 | SE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NE SE | | (33) | CLARK | |
| 10N | 30E | 29 | SW SW | | (33) | CLARK | |
| 10N | 30E | 32 | NW NW | | (33) | CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 2.500 | |

2.44565 cfs

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 2.500 | | | | |

2.44565 cfs

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT



Water Right Number - 32-00093 Prefix Translation: WATER RIGHT Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** SIMMONS | WILLIAM T. | 1 - 2 - 3 - City- TERRETON State- ID Zip- 83450 Phone - |
| *** O - ORIGINAL OWNER *** KAUFMAN | EDWARD | 1 - 2 - 3 - City- State- Zip- Phone - |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1886 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE SW | | (33) | CLARK | |
| 10N | 29E | 14 | NE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NW NE | | (33) | CLARK | |
| 10N | 29E | 24 | SE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NE SE | | (33) | CLARK | |
| 10N | 29E | 30 | SW SW | | (33) | CLARK | |
| 10N | 29E | 32 | NW NW | | (33) | CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 1.600 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 1.600 | | | 1.56522 | |

1.56522

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT



Water Right Number - 32-00101 Prefix Translation: WATER RIGHT Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** WEIMER | THOMAS J. | 1 - 2 - 3 - City- State- Zip- Phone - |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 06/04/1909 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | | | 2.900 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 2.900 | | | | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 2 | SW SW | | | 01 | IRRIGATION | 33 CLARK |
| 10N | 29E | 3 | SE NE | | | 01 | IRRIGATION | 33 CLARK |
| 10N | 29E | 3 | NE SE | | | 01 | IRRIGATION | 33 CLARK |
| 10N | 29E | 3 | SE SE | | | 01 | IRRIGATION | 33 CLARK |

Diversion Means -

Non-Irrigation Use -

Other Rights for Same Use - 32-0072.

Remarks

P/D INCOMPLETE - ACRES LISTED 160.
RIGHT IS LIMITED TO 1 MINER'S INCH PER ACRE.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

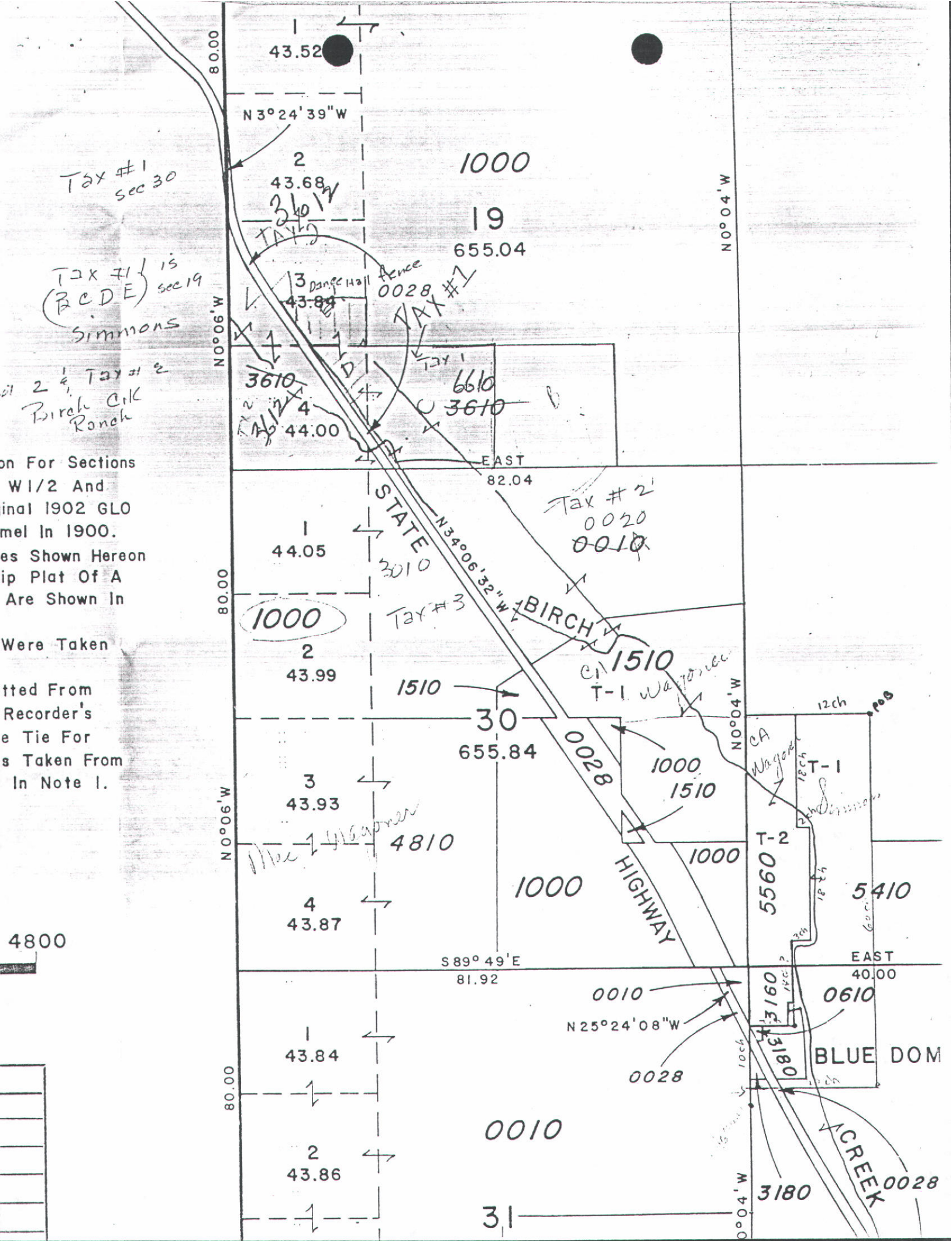
| Decree Plaintiff | Decree Defendant | Decree Date |
|---|---|---|
| AGNES B. RENO, ET. AL. | J. R. RICHARDS, ET. AL. | 09/06/1922 |

The East half of the North-east Quarter of the North-west Quarter of Section Twenty-two (22), and the South-West Quarter of the South-west Quarter of Section Fifteen (15), in Township Eleven (11), North of Range Thirty (30) East of the Boise Meridian, in Lemhi County, State of Idaho, containing one hundred and sixty acres;

32 0072 That Thomas J. Weimer have the exclusive use, at all times, of the waters of those certain springs situated in the South-east Quarter of the North-east Quarter of Section Three (3), Township Ten (10) North of Range Twenty-nine (29), East of the Boise Meridian; and also have, at all times; the use of two and nine-tenths 32-01 (2.9) cubic feet per second of time of the waters of said Birch Creek; his right to the use of the waters of said Birch Creek to date from the 4th day of June, 1909; all of the said waters of the said Springs and of said Birch Creek to be used upon and become appurtenant to the following described lands:

The South-east Quarter of the North-east Quarter, the East Half of the South-east Quarter of Section Three (3), and the South-west Quarter of the South-west Quarter of Section Two (2), in Township Ten (10) North of Range Twenty-nine (29) East of the Boise Meridian, in Clark County, State of Idaho, containing one hundred and sixty acres; provided, however, that the said Thomas J. Weimer shall only be entitled to the use of one (1) Miners' inch per acre of the said waters for the irrigation of so much of said lands as are not in actual cultivation, until the whole thereof shall be placed in cultivation; and if the said defendant shall fail to bring said lands under cultivation and make beneficial use of the waters thereon within five (5) years from the date hereof, he shall be deemed to have abandoned such part of said waters as have not been so used.

32 0073 That the said Defendant, George Goddard, and his successors in interest, have, at all times, the use of two-tenths of a cubic foot per second of time (ten miners' inches) of the waters of said Birch Creek, his right to the use of the same to date from the 15th day of May, 1909; that said George Goddard, and his successors in interest, also, have, at all times, the use of an additional two-tenths of a 32 0077 cubic foot per second of time (ten Miners' inches) of the waters of Birch Creek, his right to the use of the same to date from the 15th day of May, 1910; and that the said George Goddard, and his successors in interest, have, at all times, the 32 0078 use of an additional two-tenths of a cubic foot per second of time (ten miners' inches) of the waters of said Birch Creek, his right to the use of same to-date




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BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL** CORRECTED NOTICE

PARCEL NO. RP 10N30E193612 A

| CATEGORY DESCRIPTION | TAX CODE LOTS / ACRES | MARKET VALUE |
|---|---|---|
| 1 IRRGTD AG | 53.000 AC | 11,130 |
| 5 DRY GRAZING | 70.500 AC | 1,974 |
| | 123.500 | 13,104* |

1990
TAXPAYERS
VALUATION
ASSESSMENT NOTICE

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 22, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER RP10N30E193610A

SEC 19 TWP 10 RGE 30
LOT 2, TAX 2 LESS 7 AC FOR RD

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

Lot 2 - SWSW

Tax 2 -

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL** CORRECTED NOTICE

PARCEL NO. RP 10N30E320610 A

| CATEGORY DESCRIPTION | TAX CODE LOTS / ACRES | MARKET VALUE |
|---|---|---|
| 1 IRRGTD AG | 144.800 AC | 27,367 |
| 5 DRY GRAZING | 296.270 AC | 8,162 |
| 19 WASTE | 12.000 AC | |
| | 453.070 | 35,529* |

1990
TAXPAYERS
VALUATION
ASSESSMENT NOTICE

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 22, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER

SEC 32 TWP 10 RGE 30
W2E2, SESE, NENW, TAX 1,3,4
S2NW, N2SW, SESW LESS 12.3 AC.
RD

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

Tax 1 -

3 -

4 -

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N30E295410 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE | |
|---|---|---|---|
| 1 IRRGTD AG | 12.600 AC | 2,381 | 1990 |
| 5 DRY GRAZING | 71.200 AC | 570 | TAXPAYERS |
| 10 RURAL HOMESITE | 1.000 AC | 2,500 | VALUATION |
| 31 RURAL RES BLDG | | 19,368 | |
| 32 RURAL IMP ON AG | | 24,651 | ASSESSMENT NOTICE |
| | 84.800 | 49,470* | Taxes are based on the valuation listed on this statement |

IF THERE ARE ANY QUESTIONS
REGARDING THIS STATEMENT
NOTIFY THE ASSESSOR'S OFFICE BEFORE
JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 29 TWP 10 RGE 30
TAX 1, SESW

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

Tax 1-

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N30E303010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE | |
|---|---|---|---|
| 1 IRRGTD AG | 49.500 AC | 10,395 | 1990 |
| 5 DRY GRAZING | 52.880 AC | 1,481 | TAXPAYERS |
| 19 WASTE | 3.600 AC | | VALUATION |
| | 105.980 | 11,876* | ASSESSMENT NOTICE |

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS
REGARDING THIS STATEMENT
NOTIFY THE ASSESSOR'S OFFICE BEFORE
JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER RP10N30E300010A
SEC 30 TWP 10 RGE 30
LOT 1, TAX 3 & HWY

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

Lot 1 NWNW

Tax 3

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
MICHAEL D. CRAPO
GAYLE A. SORENSON
DONALD L. HARRIS
RANDALL B. REED
MARIE T. FEELEY
JOHN G. SIMMONS
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

MAR 14 1991

March 13, 1991

Keith C. Wilson, Senior Resource Agent
IDAHO DEPARTMENT OF WATER RESOURCES
150 Shoup Avenue, #15
Idaho Falls, Idaho 83402

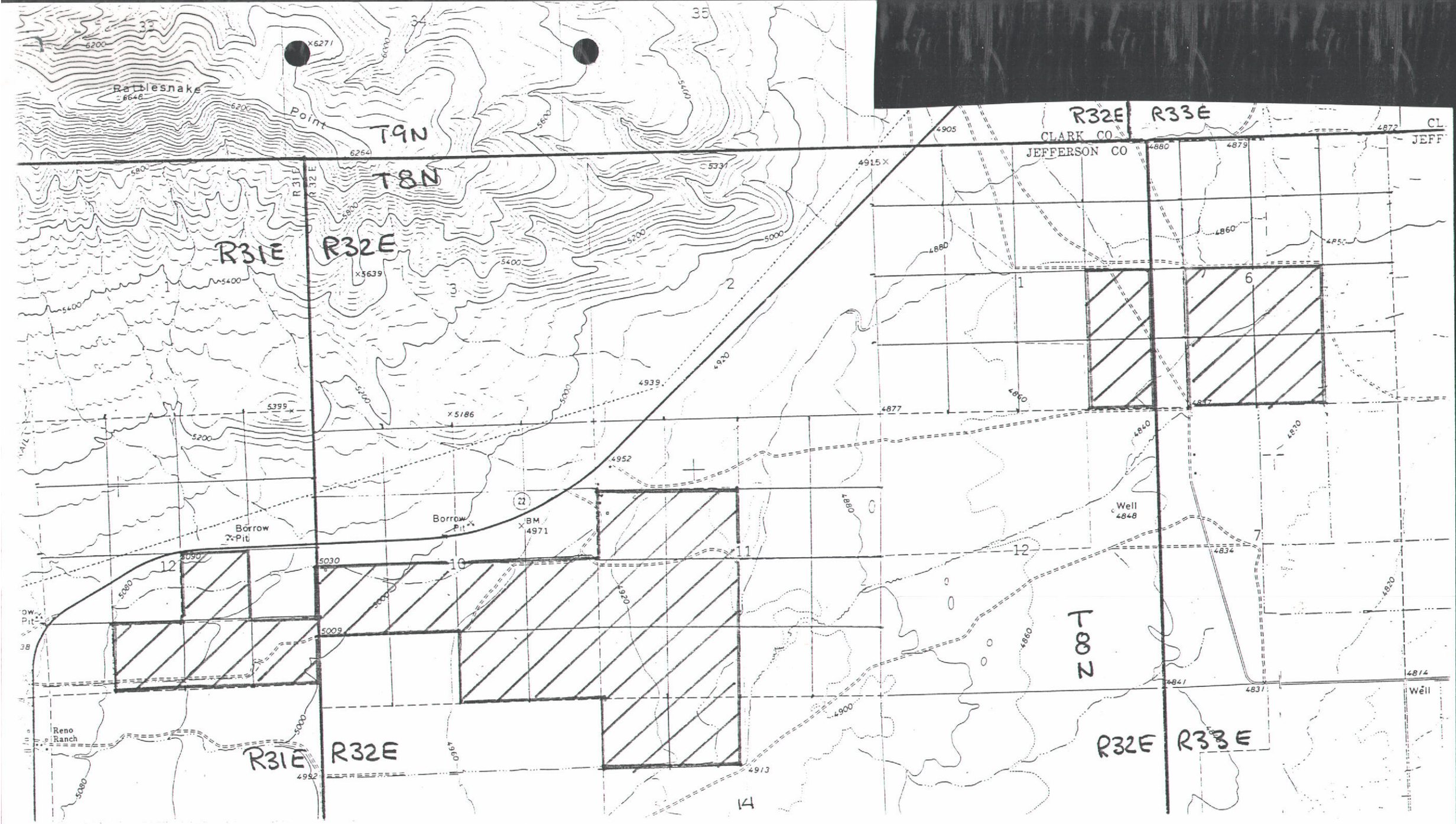
RE: Birch Creek Ranches, Inc.
Amended Applications for Transfer

Dear Mr. Wilson:

In response to your letter of March 7th which we received on the 11th:

1. With respect to the portion of Birch Creek Ranches' Amended Application for Transfer of 17.5 cfs to D & D lands, the correct place of use is shown under Part 1, Item # B.5. The map we referred to was not the map submitted by Mac and Betty Wagoner, but rather the map filed with the original Birch Creek Ranches application in April of 1989. This water is leased to D & D Enterprises and we relied upon the legal description of 960 acres supplied by Mr. Jim DeMordaunt. We do not know for certain who prepared the map for the Wagoner application; we thought it was Ron Carlson.

2. With respect to the portion of Birch Creek Ranches' Amended Application for Transfer for 4.0 cfs to Wagoner lands, we copied Part 1, Item # B.5 and the map from the copy of Wagoners' application which was furnished to us by Mr. Breck Barton, and we assumed that the correct description was contained in Part 1, Item # B.5. We neither prepared nor reviewed the map submitted by Mr. Wagoner; again, we thought it was all prepared by Ron Carlson, but really do not know for certain.


Rattlesnake
6648
Point
T9N
T8N
R31E
R32E
R33E
CLARK CO
JEFFERSON CO
Borrow Pit
Borrow Pit
BM 4971
Well 4848
Well
Reno Ranch
6271
5639
5186
5399
6264
5331
4939
4952
4915
4905
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IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00061C  Prefix Translation: ADJUDICATION CLAIM  Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER ***<br>SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| *** O - ORIGINAL OWNER ***<br>RENO | JEROME F. | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion — Stream Index (Blank if no Index Code)

| Twn | Rng | Sec | Tract | Lot | RFlg | County |
|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | | (33) CLARK |
| 10N | 29E | 14 | NW NE NE | | | (33) CLARK |
| 10N | 29E | 24 | NE NW NE | | | (33) CLARK |
| 10N | 29E | 24 | SE SE NE | | | (33) CLARK |
| 10N | 29E | 29 | SE NW SW | | | (33) CLARK |
| 10N | 29E | 32 | SE NW NW | | | (33) CLARK |
| 10N | 29E | 32 | NW SE SW | | | (33) CLARK |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 1.600 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 1.600 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00061D  Prefix Translation: ADJUDICATION CLAIM  Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| D & D ENTERPRISES | | 1 - C/O PETERSEN, MOSS & OLSEN<br>2 - 485 E STREET<br>3 -<br>City- IDAHO FALLS State- ID Zip- 83402<br>Phone - 208-523-4650 |
| *** O - ORIGINAL OWNER *** | | |
| RENO | JEROME F. | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- N/A<br>Phone - 208-000-0000 |
| *** A - ATTORNEY *** | | |
| PETERSEN, JR. | GEORGE C. | 1 - C/O PETERSEN, MOSS & OLSEN<br>2 - 485 E STREET<br>3 -<br>City- IDAHO FALLS State- ID Zip- 83402<br>Phone - 208-523-4650 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 08N | 30E | 3 | NE NE SW | | (33) | CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 2.800 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 2.800 | | | 365.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 08N | 32E | 11 | SW NW | | 29.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 11 | SE NW | | 32.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 11 | NE SW | | 36.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 11 | NW SW | | 36.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 11 | SW SW | | 38.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 11 | SE SW | | 27.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 14 | NE NW | | 17.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 14 | NW NW | | 36.0 | 01 | IRRIGATION | (51 ) JEFFERSON |

Total Acres: 251.0

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00068 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| *** O - ORIGINAL OWNER *** | | |
| WOOD LIVESTOCK CO. | | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1887 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | | (33) CLARK | |
| 10N | 29E | 14 | NW NE NE | | | (33) CLARK | |
| 10N | 29E | 24 | NE NW NE | | | (33) CLARK | |
| 10N | 29E | 24 | SE SE NE | | | (33) CLARK | |
| 10N | 30E | 29 | SW NW SW | | | (33) CLARK | |
| 10N | 30E | 32 | SE NW NW | | | (33) CLARK | |
| 10N | 30E | 32 | NW SE SW | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 3.200 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 3.200 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00069 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| *** O - ORIGINAL OWNER *** | | |
| WOOD LIVESTOCK CO. | | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | | (33) CLARK | |
| 10N | 29E | 14 | NW NE NE | | | (33) CLARK | |
| 10N | 29E | 24 | NE NW NE | | | (33) CLARK | |
| 10N | 29E | 24 | SE SE NE | | | (33) CLARK | |
| 10N | 30E | 29 | SW NW SW | | | (33) CLARK | |
| 10N | 30E | 32 | SE NW NW | | | (33) CLARK | |
| 10N | 30E | 32 | NW SE SW | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 3.200 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 3.200 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00089 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| *** O - ORIGINAL OWNER *** | | |
| WATTS | C. B. | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion — Stream Index (Blank if no Index Code)

| Twn | Rng | Sec | Tract | Lot | RFlg | County |
|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | | (33) CLARK |
| 10N | 29E | 14 | NW NE NE | | | (33) CLARK |
| 10N | 29E | 24 | NE NW NE | | | (33) CLARK |
| 10N | 29E | 24 | SE SE NE | | | (33) CLARK |
| 10N | 30E | 29 | SW NW SW | | | (33) CLARK |
| 10N | 30E | 32 | SE NW NW | | | (33) CLARK |
| 10N | 30E | 32 | NW SE SW | | | (33) CLARK |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 2.500 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 2.500 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00090 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1886 | 15 EASTERN | D - DECREED | |

Source: BIRCH CREEK

Tributary: SINKS

Point of Diversion — Stream Index (Blank if no Index Code)

| Twn | Rng | Sec | Tract | Lot | RFlg | County |
|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | | (33) CLARK |
| 10N | 29E | 14 | NW NE NE | | | (33) CLARK |
| 10N | 29E | 24 | NE NW NE | | | (33) CLARK |
| 10N | 29E | 24 | SE SE NE | | | (33) CLARK |
| 10N | 30E | 29 | SW NW SW | | | (33) CLARK |
| 10N | 30E | 32 | SE NW NW | | | (33) CLARK |
| 10N | 30E | 32 | NW SE SW | | | (33) CLARK |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 1.600 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 1.600 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

Water Right Number - A32-00091 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| WAGONER | BLANCHE | 1 - STAR ROUTE<br>2 -<br>3 -<br>City- LEADORE State- ID Zip- 83464<br>Phone - 208-000-0000 |
| *** O - ORIGINAL OWNER *** | | |
| KAUFMAN | EDWARD | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/01/1901 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| PASS CREEK | BIRCH CREEK |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 30E | 30 | NE NE SW | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 0.500 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 0.500 | | | 230.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 30E | 29 | NW SW | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 11.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE SE | | 33.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW SE | | 2.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE SE | | 1.0 | 01 | IRRIGATION | (33 ) CLARK |

Total Acres: 92.0

+ - - Diversion Means - HEADGATE TO DITCHES FOR FLOOD IRRIGATION

+ - - Non-Irrigation Use - NONE

+ - - Other Rights for Same Use - A32-00088/10124

Water Right Number - A32-00091A  Prefix Translation: ADJUDICATION CLAIM  Old (D) Number -

*** C - CURRENT OWNER ***
BIRCH CREEK RANCHES, INC.

1 - C/O HOLDEN,KIDWELL,HAHN, CRAPO
2 - PO BOX 50130
3 -
City- IDAHO FALLS  State- ID  Zip- 83405
Phone - 208-523-0620

*** O - ORIGINAL OWNER ***
KAUFMAN  EDWARD

1 -
2 -
3 -
City- N/A  State- ID  Zip- 00000
Phone - 208-000-0000

Priority Date: 05/01/1901
Region: 15 EASTERN
Stage: D - DECREED
Status:

Source: BIRCH CREEK
Tributary: SINKS

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE SW | | (33) | CLARK | |
| 10N | 29E | 14 | NE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NW NE | | (33) | CLARK | |
| 10N | 29E | 24 | SE NE | | (33) | CLARK | |
| 10N | 29E | 29 | NW SW | | (33) | CLARK | |
| 10N | 30E | 32 | NW NW | | (33) | CLARK | |
| 10N | 30E | 32 | SE SW | | (33) | CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 0.500 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

Total Div. Rate: 0.500
Total Div. Volume:
Total Div. Capacity:
Total Consumptive Use: 2215.0
KW Usage:

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00092A  Prefix Translation: ADJUDICATION CLAIM  Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** JUDY | JANICE M. | 1 - 3580 WEST ELSWOOD<br>2 -<br>3 -<br>City- DUBOIS State- ID Zip- 83402<br>Phone - 208-523-1154 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | Error in Region | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 30E | 32 | NW NW NW | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 1.000 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 0.100 | | | 20.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 30E | 32 | NW NW | | 8.0 | 01 | IRRIGATION | (33 ) CLARK |

Total Acres: 8.0

Diversion Means - HEADGATE IN STREAM W/ V-NOTCH WEIR TO POND/PUMPED FROM POND.

Non-Irrigation Use - NONE

Other Rights for Same Use - NONE

Remarks

SHARE OF THIS RIGHT OBTAINED BY LAND PURCHASE IN WARRANTY DEED ATTACHED.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

| Decree Plaintiff | Decree Defendant | Decree Date |
|---|---|---|
| AGNES B. RENO, ET. AL. | J. R. RICHARDS, ET. AL. | 09/06/1922 |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00092B  Prefix Translation: ADJUDICATION CLAIM  Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | Error in Region | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | | (33) CLARK | |
| 10N | 29E | 14 | NW NE NE | | | (33) CLARK | |
| 10N | 29E | 24 | NE NW NE | | | (33) CLARK | |
| 10N | 29E | 24 | SE SE NE | | | (33) CLARK | |
| 10N | 30E | 29 | SW NW SW | | | (33) CLARK | |
| 10N | 30E | 32 | SE NW NW | | | (33) CLARK | |
| 10N | 30E | 32 | NW SE SW | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 2.500 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 2.500 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00093 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| *** O - ORIGINAL OWNER *** | | |
| KAUFMAN | EDWARD | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1886 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | | (33) CLARK | |
| 10N | 29E | 14 | NW NE NE | | | (33) CLARK | |
| 10N | 29E | 24 | NE NW NE | | | (33) CLARK | |
| 10N | 29E | 24 | SE SE NE | | | (33) CLARK | |
| 10N | 30E | 29 | SW NW SW | | | (33) CLARK | |
| 10N | 30E | 32 | SE NW NW | | | (33) CLARK | |
| 10N | 30E | 32 | NW SE SW | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 1.600 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 1.600 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |

Water Right Number - A32-00101 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

*** C - CURRENT OWNER ***
WOODIE LAND AND LIVESTOCK

1 - HC 65 BOX 1018
2 -
3 -
City- HOWE State- ID Zip- 83244
Phone - 208-767-3461

Priority Date: 06/04/1909
Region: Error in Region
Stage: D - DECREED
Status:

Source: BIRCH CREEK
Tributary: SINKS

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 3 | SE SE NE | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 2.900 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 2.900 | | | 160.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 2 | SW SW | | 12.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 3 | SE NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 3 | NE SE | | 19.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 3 | SE SE | | 28.0 | 01 | IRRIGATION | (33 ) CLARK |

Total Acres: 64.0

Diversion Means - DITCH TO FLOOD IRRIGATION

Non-Irrigation Use - NONE

Other Rights for Same Use - 32-0072.

Remarks

Old Water Right Numbers
No Old Water Right Numbers found.

Conditions of Approval
No Conditions of Approval found.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

RECEIVED
APR 28 1997
Department of Water Resources
Eastern District Office

COPY

| | |
|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | **NOTICE OF PREHEARING CONFERENCE** |

The Department of Water Resources has scheduled this matter for prehearing conference as follows:

| | |
|---|---|
| Date: | Wednesday, May 21, 1997 |
| Location: | DEQ Conference Rm.<br>900 N. Skyline Drive, Idaho Falls, ID<br>Call (208)525-7161 for directions. |
| Time: | 9:00 a.m. |

This prehearing conference will be held for the purposes set forth in IDAPA 37.01.01.510 (Rule 510) and will be held informally according to IDAPA 37.01.01.512 (Rule 512). The Department's authority to hold hearings in this matter is based in I.C. § 42-222.

The prehearing conference will be conducted in a facility meeting the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the Department within ten (10) days prior to the prehearing conference.

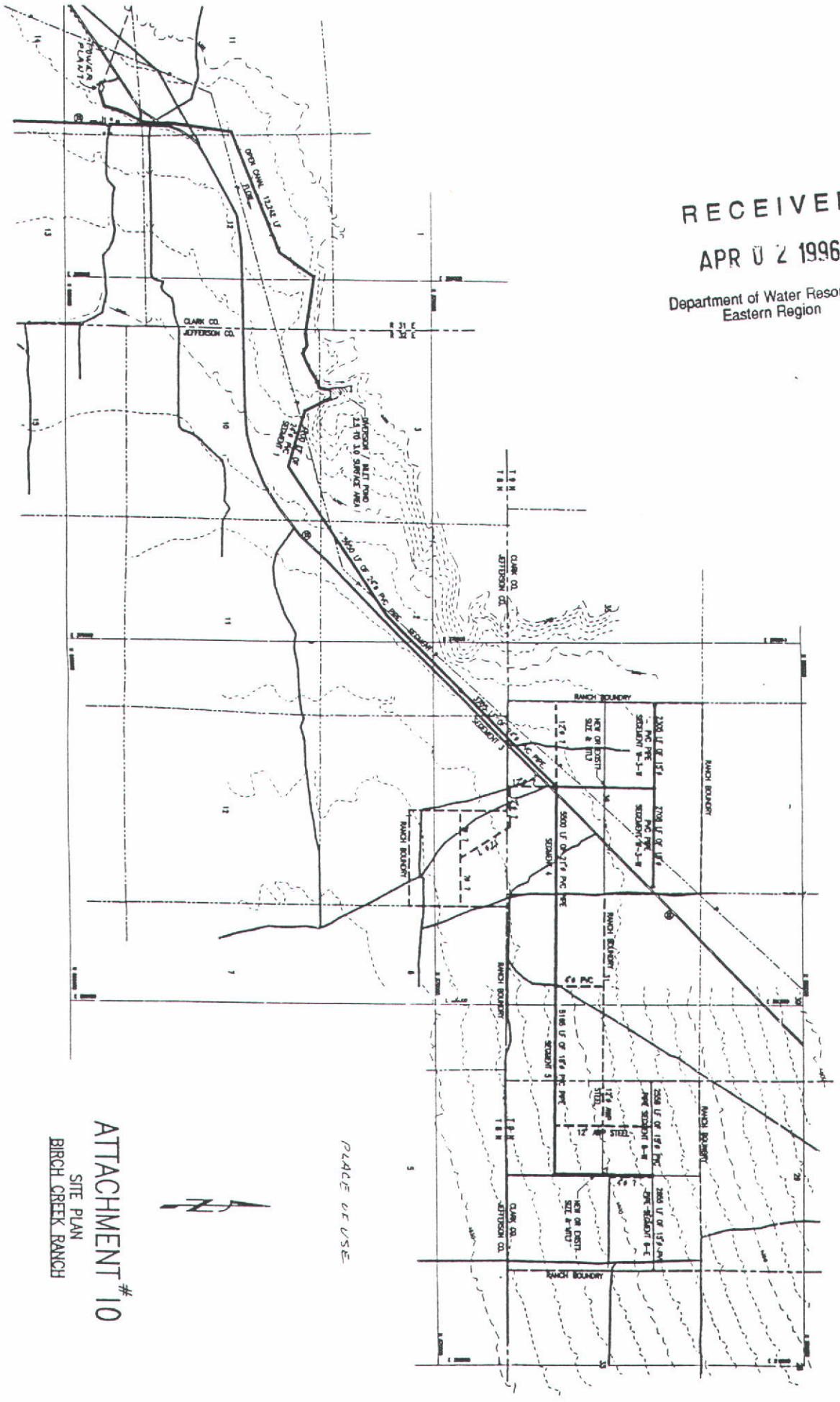
DATED this 24th day of April, 1997.

Peter R. Anderson

PETER R. ANDERSON
Hearing Officer

ATTACHMENT NO. 10

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region




ATTACHMENT #10
SITE PLAN
BIRCH CREEK RANCH

PLACE OF USE

RB

# The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707-0040

## LEGAL ADVERTISING INVOICE

| Amount Due |
|---|
| $47.88 |

| Account Number/Trans. # | Identification | | |
|---|---|---|---|
| 100564 | Notice of Correction Amended Transfer No. 3553 | | |
| **Ordered By** | **P.O. Number** | **Rate** | **Run Dates** |
| Rita Bodell | | NT | July 17, 24, 1997 |

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
900 N.SKYLINE DR
IDAHO FALLS, ID 83402-1718

| Estimated Inches | Real Inches |
|---|---|
| **# Affidavits** | **Legal Number** |
| 1 | 8118 |

**LEGAL NOTICE**

**NOTICE OF CORRECTION AMENDED TRANSFER NO. 3553**

NOTICE IS HEREBY GIVEN that amended Transfer NO. 3553 in the name of Birch Creek Ranches, LLC, c/o Holden, Kidwell, Hahn & Crapo, PLLC, PO Box 50130, Idaho Falls, ID 83405 was advertised incorrectly in part on January 2 & 9, 1997. The purpose of the application as advertised was to change the point of diversion and place of use of 17 rights in the Birch Creek drainage.

Rights 32-00091 and 32-00068 were not listed with the current source that the applicant intended to identify.

Right 32-00091 Decreed to Edward Kaufman with a priority of May 1, 1901, in the amount of 0.50 cfs should have listed Birch Creek as the source.

Right 32-00068 Decreed to Wood Livestock Co. with a priority of May 10, 1887, in the amount of 3.20 cfs should have listed only Birch Creek at the Source.

Any protests against the granting of this transfer as a result of this correction must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Ste A., Idaho Falls, ID, 83402, with a $25 fee on or before August 4, 1997.

KARL J. DREHER, Director

Pub. July 17 & 24, 1997 8118

RECEIVED
JUL 31 1997
Department of Water Resources
Eastern Region

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for two

☒ consecutive weekly ☐ single
consecutive daily odd skip

insertion(s) beginning with the issue of
July 17 , 1997
and ending with the issue of
July 24 , 1997

Janice Hildreth

STATE OF IDAHO )
) ss.
COUNTY OF ADA )

On this 23 day of July in the year of 1997, before me, a Notary Public, personally appeared JANICE HILDRETH known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Janie Modie

Notary Public for Idaho
Residing at: Boise, Idaho
My commission expires: 5703

JANIE MODIE NOTARY PUBLIC STATE OF IDAHO

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# TRANSFER OF WATER RIGHT

**TRANSFER NO. 5450**

**WATER RIGHT NO(S). 32-00058/32-00059/32-00060/32-00061C/32-00061D 32-00062/32-00063/32-00064/32-00065/32-00066/32-00068/32-00069 32-00070A/32-00070B/32-00073/32-00074/32-00075/32-00076/32-00077 32-00078/32-00079/32-00080/32-00083/32-00085/32-00086/32-00087 32-00089/32-00090A/32-00091/32-00092/32-00093/32-00101/32-00102 32-02043 & 32-02045**

This is to certify that: **RENO DITCH COMPANY**
**C/O KENT FOSTER**
**HOLDEN KIDWELL HAHN & CRAPO**
**PO BOX 50130**
**IDAHO FALLS ID 83405**

The requested changes have been reviewed in accordance with the provisions of Section 42-222, Idaho Code, and are hereby approved as hereafter set forth. The rights shall be used as herein described in accordance with the conditions of approval and applicable laws and rules.

| | PRIORITY | DIVERSION RATE | ACRES | ANNUAL VOLUME |
|---|---|---|---|---|
| Right No. 32-00058 : | 04/01/1910 | 1.00 CFS | 67.0 | 234.5 AF |
| Right No. 32-00059 : | 05/10/1884 | 6.40 CFS | 320.0 | 1120.0 AF |
| Right No. 32-00060 : | 05/10/1883 | 3.20 CFS | 320.0 | 1120.0 AF |
| Right No. 32-00080 : | 05/10/1886 | 3.20 CFS | 320.0 | 1120.0 AF |
| Right No. 32-00061C : | 05/10/1888 | 0.40 CFS | 20.0 | 70.0 AF |
| Right No. 32-00068 : | 05/10/1887 | 3.20 CFS | 160.0 | 560.0 AF |
| Right No. 32-00069 : | 05/10/1888 | 3.20 CFS | 160.0 | 560.0 AF |
| Right No. 32-00073 : | 05/15/1909 | 0.20 CFS | 160.0 | 84.9 AF |
| Right No. 32-00077 : | 05/15/1910 | 0.20 CFS | 160.0 | 84.9 AF |
| Right No. 32-00078 : | 05/15/1911 | 0.20 CFS | 160.0 | 84.9 AF |
| Right No. 32-00079 : | 05/15/1913 | 0.80 CFS | 160.0 | 339.6 AF |
| Right No. 32-00085 : | 05/10/1910 | 0.20 CFS | 120.0 | 84.9 AF |
| Right No. 32-00086 : | 05/01/1911 | 0.20 CFS | 120.0 | 84.9 AF |
| Right No. 32-00087 : | 05/01/1912 | 0.20 CFS | 120.0 | 84.9 AF |

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## TRANSFER NO. 5450

| | | | | |
|---|---|---|---|---|
| Right No. 32-00089 : | 05/10/1888 | 2.50 CFS | 160.0 | 560.0 AF |
| Right No. 32-00090A : | 05/10/1886 | 0.80 CFS | 80.0 | 280.0 AF |
| Right No. 32-00091 : | 05/01/1901 | 0.50 CFS | 240.0 | 212.2 AF |
| Right No. 32-00092 : | 05/10/1888 | 2.50 CFS | 240.0 | 840.0 AF |
| Right No. 32-00093 | 05/10/1886 | 1.60 CFS | 240.0 | 679.2 AF |
| Right No. 32-00102 : | 05/10/1889 | 4.00 CFS | 120.0 | 420.0 AF |
| Right No. 32-00061D : | 05/10/1888 | 2.80 CFS | 140.0 | 490.0 AF |
| Right No. 32-00070A : | 08/19/1886 | 2.40 CFS | 120.0 | 420.0 AF |
| Right No. 32-02043 : | 09/19/1912 | 6.40 CFS | 320.0 | 1120.0 AF |
| Right No. 32-00062 : | 04/01/1904 | 3.20 CFS | 160.0 | 560.0 AF |
| Right No. 32-00070B : | 09/19/1886 | 0.80 CFS | 40.0 | 140.0 AF |
| Right No. 32-02045 : | 11/16/1912 | 6.40 CFS | 320.0 | 1120.0 AF |
| Right No. 32-00063 : | 04/01/1904 | 3.20 CFS | 159.2 | 557.2 AF |
| Right No. 32-00065 : | 05/10/1884 | 3.20 CFS | 160.0 | 560.0 AF |
| Right No. 32-00064 : | 04/01/1907 | 3.20 CFS | 160.0 | 560.0 AF |
| Right No. 32-00066 : | 01/05/1910 | 6.40 CFS | 320.0 | 1120.0 AF |
| Right No. 32-00074 : | 10/01/1910 | 0.14 CFS | 160.0 | 59.4 AF |
| Right No. 32-00075 : | 05/15/1911 | 0.26 CFS | 160.0 | 110.4 AF |
| Right No. 32-00076 : | 05/15/1912 | 0.80 CFS | 160.0 | 339.6 AF |
| Right No. 32-00083 : | 05/15/1912 | 0.46 CFS | 160.0 | 195.3 AF |
| Right No. 32-00101 : | 06/04/1909 | 2.90 CFS | 160.0 | 560.0 AF |
| | TOTALS: | * 77.06 CFS | * 3427.0 | * 11579.2 AF |

| BENEFICIAL USE | PERIOD OF USE |
|---|---|
| IRRIGATION | 04/01 to 11/01 |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

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## TRANSFER NO. 5450

**LOCATION OF POINT(S) OF DIVERSION:** SESW , Sec. 34, Township 09N, Range 30E
CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | | ACRES | | ACRES | | ACRES | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| 08N | 31E | 12 | SESW | 40 | NESE | 40 | NWSE | 40 | |
| | | | SWSE | 40 | SESE | 40 | | | 200 |
| | | 13 | NENE | 40 | NWNE | 40 | SWNE | 40 | |
| | | | SENE | 40 | NENW | 40 | NWNW | 40 | |
| | | | SWNW | 40 | SENW | 40 | NESW | 40 | |
| | | | NWSW | 40 | NESE | 40 | NWSE | 40 | 480 |
| | | 14 | NENE | 40 | SENE | 40 | | | 80 |
| | 32E | 1 | Lot 1(NENE) | 34 | Lot 2(NWNE) | 34 | SWNE | 40 | |
| | | | SENE | 40 | Lot 3(NENW) | 34 | Lot 4(NWNW) | 20 | |
| | | | SWNW | 40 | SENW | 40 | NESW | 40 | |
| | | | NWSW | 40 | SWSW | 40 | SESW | 40 | |
| | | | NESE | 40 | NWSE | 40 | SWSE | 40 | |
| | | | SESE | 40 | | | | | 602 |
| | | 2 | Lot 1(NENE) | 2 | SWNE | 3 | SENE | 30 | |
| | | | NESW | 3 | SWSW | 3 | SESW | 30 | |
| | | | NESE | 40 | NWSE | 40 | SWSE | 40 | |
| | | | SESE | 40 | | | | | 231 |
| | | 10 | SENE | 15 | NESW | 40 | Lot 3(NWSW) | 41 | |
| | | | Lot 4(SWSW) | 42 | SESW | 40 | NESE | 40 | |
| | | | NWSE | 40 | SWSE | 40 | SESE | 40 | 338 |
| | | 11 | NENE | 40 | NWNE | 40 | SENE | 40 | |
| | | | NENW | 40 | NWNW | 20 | SWNW | 40 | |
| | | | SENW | 40 | NESW | 40 | NWSW | 40 | |
| | | | SWSW | 40 | SESW | 40 | | | 420 |
| | | 12 | NWNE | 40 | NENW | 40 | NWNW | 40 | |
| | | | SWNW | 40 | | | | | 160 |
| | | 14 | NENW | 40 | NWNW | 40 | | | 80 |
| | | 15 | NENE | 40 | NWNE | 40 | SWNE | 40 | |
| | | | SENE | 40 | NENW | 40 | Lot 1(NWNW) | 42 | |
| | | | Lot 2(SWNW) | 42 | SENW | 40 | | | 324 |
| | 33E | 5 | Lot 3(NENW) | 34 | Lot 4(NWNW) | 34 | SWNW | 40 | |
| | | | SENW | 40 | NWSW | 40 | SWSW | 40 | 228 |
| | | 6 | Lot 1(NENE) | 34 | Lot 2(NWNE) | 34 | SWNE | 40 | |
| | | | SENE | 40 | Lot 3(NENW) | 34 | Lot 4(NWNW) | 17 | |
| | | | Lot 5(SWNW) | 20 | SENW | 40 | NESW | 40 | |
| | | | Lot 6(NWSW) | 20 | Lot 7(SWSW) | 20 | SESW | 40 | |
| | | | NESE | 40 | NWSE | 40 | SWSE | 40 | |
| | | | SESE | 40 | | | | | 539 |
| | | 7 | NENE | 40 | NWNE | 40 | SWNE | 40 | |
| | | | SENE | 40 | NENW | 40 | NESE | 40 | |
| | | | NWSE | 40 | SWSE | 40 | SESE | 40 | 360 |
| | | 8 | NENW | 40 | NWNW | 40 | SWNW | 40 | |
| | | | SENW | 40 | NESW | 40 | NWSW | 40 | |
| | | | SWSW | 40 | SESW | 40 | | | 320 |

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## TRANSFER NO. 5450

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| 09N | 31E | 31 | | NESW | 40 | Lot 3 (NWSW) | 40 | Lot 4 (SWSW) | 40 | |
| | | | | SESW | 40 | NESE | 40 | NWSE | 40 | |
| | | | | SWSE | 40 | SESE | 40 | | | 320 |
| | | 32 | | NENE | 40 | NWNE | 40 | SWNE | 40 | |
| | | | | SENE | 40 | NENW | 40 | NWNW | 40 | |
| | | | | SWNW | 40 | SENW | 40 | NESW | 40 | |
| | | | | NWSW | 40 | SWSW | 40 | SESW | 40 | 480 |
| | 32E | 36 | | NENE | 40 | NWNE | 40 | SWNE | 40 | |
| | | | | SENE | 40 | NENW | 40 | NWNW | 40 | |
| | | | | SWNW | 40 | SENW | 40 | NESW | 40 | |
| | | | | NWSW | 40 | Lot 4 (SWSW) | 35 | Lot 3 (SESW) | 41 | |
| | | | | NESE | 40 | NWSE | 40 | Lot 2 (SWSE) | 40 | |
| | | | Lot 1 (SESE) | | 40 | | | | | 636 |
| | | | | | | | | Permissible Place of Use Acres: | | * 5798 |

## CONDITIONS OF APPROVAL

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 32D.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
7. Rights 32-00060 and 32-00080 when combined shall not exceed the total annual diversion volume of 1120.0 af and the irrigation of 320.0 acres.
8. Rights 32-00073, 32-00077, 32-00078 and 32-00079 when combined shall not exceed the total annual diversion volume of 560.0 af and the irrigation of 160.0 acres.
9. Rights 32-00085, 32-00086 and 32-00087 when combined shall not exceed the irrigation of 120.0 acres.
10. Rights 32-00089 and 32-00090A when combined shall not exceed the total annual diversion volume of 560.0 af and the irrigation of 160.0 acres.
11. Rights 32-00091, 32-00092 and 32-00093 when combined shall not exceed the total annual diversion volume of 840.0 af and the irrigation of 240.0 acres

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JUL 28 1999

**TRANSFER NO. 5450**

12. Rights 32-00061C, 32-00068, 32-00069, 32-00073, 32-00077, 32-00078, 32-00079, 32-00085, 32-00086, 32-00087, 32-00089, 32-00090A, 32-00091, 32-00092, 32-00093 and 32-00102 when combined shall not exceed the total annual diversion volume of 3360.0 af and the irrigation of 960.0 acres.
13. Rights 32-00061D, 32-00070A and 32-02043 when combined shall not exceed the total annual diversion volume of 1120.0 af and the irrigation of 320.0 acres.
14. Rights 32-00062, 32-00070B and 32-02045 when combined shall not exceed the total annual diversion volume of 1120.0 af and the irrigation of 320.0 acres.
15. Rights 32-00063 and 32-00065 when combined shall not exceed the total annual diversion volume of 560.0 af and the irrigation of 160.0 acres.
16. Rights 32-00074, 32-00075, 32-00076 when combined shall not exceed the irrigation of 160.0 acres.
* 17. All rights under Transfer 5450 when combined shall not exceed a total diversion rate of 77.06 cfs, a total annual maximum diversion volume of 11,579.2 af at the field headgates, and the irrigation of 3,427.0 acres in the place of use described above in a single irrigation season.
18. Approval of Transfer 5450 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

Dated this 23rd day of July, 1999.

NORMAN C. YOUNG, Administrator

MICROFILMED
JUL 28 1999

WR5809NP
No. 32-00101

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/27/94
PAGE: 1

| OWNER CODE | NAME & ADDRESS | PRIORITY DATE | WATER USE | USE PERIOD FROM | USE PERIOD TO | DIVERSION RATE | DIVERSION VOLUME |
|---|---|---|---|---|---|---|---|
| C | THOMAS J. WEIMER | 06/04/1909 | IRRIGATION | 00-00 | 00-00 | 2.90 CFS | |
| | | | | TOTAL DIVERSION: | | 2.90 CFS | |

Water Source: BIRCH CREEK  Tributary to: SINKS  Stage: DECREED

Place of use Legal Description for: IRRIGATION

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NENE | NWNE | SWNE | SENE | NENW | NWNW | SWNW | SENW | NESW | NWSW | SWSW | SESW | NESE | NWSE | SWSE | SESE | |
| T | R | S | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | SUM |
| 10N | 29E | 2 | | | | | | | | | | | I | | | | | | |
| 10N | 29E | 3 | | | | I | | | | | | | | | I | | | I | |

Pou County: CLARK

Other Rights: 32-0072.

Other Water Rights Listing Overlapping Place(s) of use:
32-00072

Remarks: P/D INCOMPLETE - ACRES LISTED 160.
RIGHT IS LIMITED TO 1 MINER'S INCH PER ACRE.

Dates: App. Received:  Priority Date: 06/04/1909
Proof Due Date:  Proof Made Date:
Exam Made Date:  Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: 32D  Field Exam Fee:

Audit: 06/24/85  05/22/88 CONVERT

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JUL 28 1999

**PLEASE SEE WR 31-61 FOR**

**EXHIBITS AND RELATED**

**DOCUMENTS FOR BIRCH CREEK**

**PROTEST**

# MEMORANDUM

**TO:** Files 32-00058/00059/00060/00061C/00061D/00062/00063/00064/00065/00066/00068/00069/00070A/00070B/00073/00074/00075/00076/00077/00078/00079/00080/00083/00085/00086/00087/00089/00090A/00091/00092/00093/00101/00102/02043 & 02045.

**FROM:** Pam Skaggs/State Office

**SUBJECT:** Transfer 5450

**DATE:** June 29, 1999

---

Transfer 5450 combines the above referenced rights from Birch Creek and creates a 5798-acre permissible place of use for the newly formed Reno Ditch Company. The rights will have a common diversion point and water will be distributed to shareholders within the service area. This transfer resolves previous disputes among the water users.

Region water right and adjudication staff reviewed these rights and provided initial recommendations. Review of the rights as originally decreed and licensed provided further detail to each right. The total combined use under these rights is limited to a diversion rate of 77.06 cfs, a total annual diversion volume of 11,579.2 af, and the irrigation of 3,427 total acres each season within in the permissible place of use.

Season of use was identified as 04-01 to 11-01 under these rights to be consistent with previous transfers. Recommended conditions include watermaster control, measuring device and lockable controlling works, irrigation overlap, permissible place of use limits, combined right limits, and standard transfer conditions.

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JUL 28 1999

**MEMORANDUM**

**TO:** FILE 32-00101

**FROM:** PAM SKAGGS

**RE:** TRANSFER # 5450

**DATE:** 5-17-99

---

Original Transfer Application, Form and correspondence regarding the above referenced Transfer is located within file # 32-00058 .

MICROFILMED

JUL 28 1999

GEORGE C. PETERSEN, JR.
WM. CHARLES CARR
SCOTT P. ESKELSON
STEPHEN D. HALL

PETERSEN, MOSS, OLSEN, CARR,
ESKELSON & HALL
Attorneys at Law
485 "E" Street
Idaho Falls, Idaho 83402
(208) 523-4650
Fax: (208) 524-3391

DENNIS M. OLSEN
(1930-1985)

REED L. MOSS
Of counsel

May 17, 1999

RECEIVED
MAY 19 1999
Department of Water Resources

Peter R. Anderson, Esq.
Hearing Officer
IDWR
1301 N Orchard Street
Boise ID 83720-0098

*Re: Application for Extention of Time to Avoid Forfeiture of Water Right No. 32-00101*

Dear Peter:

Thank you for your letter of May 10, 1999. On behalf of D&D, I withdraw any protest which was filed in the above matter. This is part of the overall settlement of the dispute and the joint creation of the Reno Ditch Company.

If anything more than this letter is required in order to accomplish the withdrawal, please let me know. Thank you for your assistance in this matter.

Very truly yours,

PETERSEN, MOSS, OLSEN, CARR,
ESKELSON & HALL

Wm. Charles Carr

WCC/plm

cc: Blair Grover
Kent Foster
Jim DeMordaunt

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JUL 28 1999

RECEIVED
MAY 17 1999
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# MOTION TO WITHDRAW PROTEST FOR EXTENSION OF TIME

## WATER RIGHT NO. 32-00101

COMES NOW the undersigned, LaVar Newman and Louise J. Newman, by and through their undersigned attorney of record, and moves to withdraw their Protest to Application For Extension of Time To Avoid Forfeiture of the above-entitled Water Right. This motion is for the reason that the undersigned and others have resolved their litigation over rights to the waters of Birch Creek, and this Protest is therefore no longer needed.

DATED this 14 day of May, 1999.

GROVER & ARCHIBALD

BLAIR GROVER

MICROFILMED
JUL 28 1999

WA

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

ALAN G. LANCE

May 10, 1999

George C. Petersen, Jr.
Wm. Charles Carr
Petersen, Moss, Olsen, Carr,
Eskelson & Hall
485 "E" Street
Idaho Falls, ID 83402

Blair J. Grover
Grover & Archibald
P.O. Box 36
Rigby, ID 83442

Kent W. Foster
Holden, Kidwell, Hahn & Crapo
P.O. Box 50130
Idaho Falls, ID 83405

Re: Birch Creek Ranches Application for Extension of Time to Avoid Forfeiture of Water Right No. 32-00101

Gentlemen:

The above-referenced Application for Extension of Time to Avoid Forfeiture is still pending before me. The Protestants need to inform me whether they wish to pursue their protests in this matter or whether they wish to withdraw those protests at this time. Further, it is my understanding that the Applicant no longer has an interest in the subject water right. The Applicant needs to inform IDWR whether it wishes to withdraw this Application or to submit a change in ownership to IDWR to place the Application under the current owner of the water right in question.

As a side-matter, I remind the parties that all of the water rights in the Birch Creek Valley are currently being investigated in the Snake River Basin Adjudication. IDWR's records in the adjudication need to be updated so the current ownership of the water right claims is reflected in the IDWR Adjudication Bureau's records.

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JUL 2 8 1999

**Natural Resources Division - Water Resources Unit**
1301 North Orchard St., Boise, Idaho 83706-2237
Telephone: (208) 327-7920, Legal FAX: (208) 327-7866
Adjudication FAX: (208) 327-5400

I look forward to hearing from you in the near future.

Sincerely,

Peter R. Anderson
Deputy Attorney General

PRA/dde
cc: Norm Young
Ron Carlson, Eastern Region

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JUL 28 1999

WA 32-00101

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

| | |
|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C.<br><br>and<br><br>IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C.<br><br>and<br><br>IN THE MATTER OF APPLICATION FOR PERMIT NO. 32-07252 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. (FORMERLY NO. 31-07646), | **ORDER STAYING PROCEEDINGS** |

In a letter to Norman C. Young, dated January 19, 1999, the parties to the above-captioned matters indicate that they may have reached a resolution to these contested cases. Part of such resolution would include the withdrawal of the transfer application and the application for permit at issue. An informal telephone conference has been set for February 19, 1999, at 1:30 p.m. to discuss this settlement agreement. To take any further actions on these matters, until the parties indicate the status of the settlement, would be an inefficient use of both IDWR's and the parties' resources.



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JUL 28 1999

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Therefore, it is hereby ORDERED that all actions and orders relating to these matters are stayed as of January 22, 1999, until an order lifting this stay is issued.

DATED this 8th day of February, 1999.

PETER R. ANDERSON
Hearing Officer

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 8th day of February, 1999, I mailed a true and correct copy of the foregoing **ORDER STAYING PROCEEDINGS** on the following persons listed below by Facsimile & U.S. mail, postage prepaid and addressed as follows:

Norman C. Young
Idaho Dept. of Water Resources
1301 N. Orchard Street
Boise, ID 83706

Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN & CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405
(208)523-9518

George Petersen, Esq.
PETERSEN MOSS OLSEN
MEACHAM & CARR
485 "E" Street
Idaho Falls, ID 83402
(208)524-3391

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

Blair J. Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442
(208)745-6655

Breck H. Barton, Esq.
BRECK BARTON & ASSOC., PA
P.O. Box 100
Rexburg, ID 83440
(208)356-4882

Deborah Drew-Ellis
Legal Secretary



JUL 28 1999

32 - 0001

# STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

ALAN G. LANCE

January 14, 1999

**via Facsimile**

George C. Petersen, Jr.
Wm. Charles Carr
Petersen, Moss, Olsen, Carr,
Eskelson & Hall
485 "E" Street
Idaho Falls, ID 83402

Blair J. Grover
Grover & Archibald
P.O. Box 36
Rigby, ID 83442

Kent W. Foster
Holden, Kidwell, Hahn & Crapo
P.O. Box 50130
Idaho Falls, ID 83405

Re: Applications for Transfer, for Amendment of Permit, for New Permit, and for Extension of Time to Avoid Forfeiture on Birch Creek

Gentlemen:

I would like to schedule an informal conference call as soon as possible to discuss the status of settlement in these matters. Please fax me your unavailable dates for the next two weeks to my secretary, Debbie Ellis, at (208)327-7866 and she will schedule a conference call for approximately 30-60 minutes. I will send everyone the date and time and instructions on how to attend upon receipt of your agendas.

Sincerely,

Peter R. Anderson
Deputy Attorney General

PRA/dde
cc: Ron Carlson, Eastern Region, IDWR

MICROFILMED
JAN 28 1999

**Natural Resources Division - Water Resources Unit**
1301 North Orchard St., Boise, Idaho 83706-2237
Telephone: (208) 327-7920, Legal FAX: (208) 327-7866
Adjudication FAX: (208) 327-5400

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
330 Shoup Avenue, Third Floor
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093, 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C.,<br><br>and<br><br>IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | **MOTION FOR ISSUANCE OF SUBPOENA** |

Applicant hereby moves the Department of Water Resources for issuance of the attached subpoena in the above entitled matter.

Kent W. Foster, Esq.

MICROFILMED
JUL 28 1999

## CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof.

**DOCUMENT SERVED:** MOTION FOR ISSUANCE OF SUBPOENAS

**ATTORNEYS SERVED:**

Blair Grover, Esq. *[First Class Mail]*
P.O. Box 36
Rigby, ID 83442-0036

George C. Petersen, Esq. *[First Class Mail]*
485 E. Street
Idaho Falls, ID 83402

Dated: 3/3/98

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\KWF\6936\ISSUE.MOT:kmc

MICROFILMED
JUL 28 1999

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

| | | |
|---|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | ) | **NOTICE OF HEARING** |
| and | ) | |
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | ) | |

Notice is hereby given that the continued hearing in this matter will be held commencing on March 12, 1998, beginning at 8:00 a.m. and continuing through March 13, 1998, at the Department of Environmental Quality Conference Room, located at 900 N. Skyline Dr., Idaho Falls, Idaho.

At the conclusion of the testimony on March 13, 1998, the hearing will then be continued to take only the testimony of Jack Barraclough and any rebuttal testimony by the applicant.

At the hearing commencing on March 12, 1998, the parties should be prepared to address:

MICROFILMED

JUL 28 1999

1. The historic consumptive use of water pursuant to the rights to be transferred; and

2. The historic conditions under which the protestant's rights were developed.

The hearing will be conducted pursuant to and in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01.606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility which meets the accessability requirements of the Americans With Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the hearing officer within ten (10) days prior to the hearing.

DATED this 10th day of February, 1998.

Peter R. Anderson

PETER R. ANDERSON
Hearing Officer

MICROFILMED
FEB 28 1998

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of February, 1998, I mailed a true and correct copy of the foregoing **NOTICE OF HEARING** on the following persons listed below by U.S. mail, postage prepaid and addressed as follows:

Norman C. Young
Idaho Dept. of Water Resources
1301 N. Orchard Street
Boise, ID 83706

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN & CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405

Blair J. Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442

George Petersen, Esq.
PETERSEN MOSS OLSEN
MEACHAM & CARR
485 "E" Street
Idaho Falls, ID 83402

Breck H. Barton, Esq.
BRECK BARTON & ASSOC., PA
P.O. Box 100
Rexburg, ID 83440

Deborah Drew-Ellis
Legal Secretary



MICROFILMED
JUL 28 1999

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

| | | |
|---|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C., | ) | **ORDER FOR MEDIATION** |
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C., | ) | |
| IN THE MATTER OF THE APPLICATION FOR AMENDMENT OF WATER RIGHT PERMITS NOS. 32-07128 AND 32-07136 IN THE NAME OF TED SORENSON d/b/a SORENSON ENGINEERING, | ) | |
| IN THE MATTER OF APPLICATION FOR PERMIT NO. 32-07252 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. (FORMERLY NO. 31-07646), | ) | |
| and | ) | |
| IN THE MATTER OF APPLICATION FOR DELIVERY OF CERTAIN WATER RIGHTS AT THEIR CURRENT ASSIGNED POINT OF DIVERSION, TOGETHER WITH AN ORDER DIRECTING WATERMASTER FOR DELIVERY OF SAME; AND/OR IN THE ALTERNATIVE TO AN ALTERNATE | ) | |



MICROFILMED
JUL 28 1999

POINT OF DIVERSION SUBJECT TO CERTAIN TERMS AND CONDITIONS TO BE AGREED TO BY BIRCH CREEK RANCHES, L.L.C.; AND FURTHER APPLICANTS' CLAIM TO ALLEGED SAVED WATERS CLAIMED BY BIRCH CREEK RANCHES, L.L.C.L, ON THE GROUNDS AND FOR THE REASONS THAT APPLICANTS HAVE USED SAID CLAIMED WATER RIGHTS FOR A BENEFICIAL PURPOSE CONTINUOUSLY FOR AND IN EXCESS OF THE PAST FIVE (5) YEARS; SAID WATER RIGHTS THE SUBJECT OF THE APPLICATION PERTAIN TO WATER RIGHT NOS. 32-00060A, 32-00059A, 32-00065, 32-00080A, 32-00070A, 32-00061D, 32-00063, 32-00064, 32-00066A&B, 32-00058 IN THE NAME OF D&D ENTERPRISES, INC., WATER RIGHTS NOS. 32-00060B, 32-00059B, 32-00080B, 32-00070B, 32-00062, IN THE NAME OF LAVAR NEWMAN.

## FINDINGS

The Director of the Idaho Department of Water Resources (IDWR) finds as follows:

1. There are currently five applications pending before IDWR relating to rights to the use of water in Birch Creek, located in Clark and Lemhi Counties. Those applications are as follows:

a. Amended Application for Transfer No. 3553 of Water Right Nos. 32-00090, 32-00093, 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073 32-00085 32-00077, 32-00086, 32-00078, 32-00087, and 32-00079 in the name of Birch Creek Ranches, L.L.C.;

b. Application for Extension of Time to Avoid Forfeiture of Water Right No. 32-00101;

c. Application for Amendment of Water Right Permits Nos. 32-07128 and 32-07136 in the name of Ted Sorenson d/b/a Sorenson Engineering;



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JUL 28 1999

d. Application for Permit No. 32-07252 in the name of Birch Creek Ranches L.L.C.;

e. Application for Delivery of Certain Water Rights at their Current Assigned Point of Diversion, together with an Order Directing Watermaster for Delivery of Same.

2. The Application described in sub-paragraphs 1.a-d have all been protested and are in the contested hearing process before IDWR.

3. The Application described in sub-paragraph 1.e has not yet been advertised nor protests received. The Applicant for the approvals requested in sub-paragraph 1.e is a protestant of the Applications described in sub-paragraphs 1.a-d.

4. Birch Creek is a small stream that flows generally north to south. At the southern end of the stream all waters of Birch Creek generally have been diverted into a hydropower canal called the New Reno Ditch that takes the water approximately nine miles to the east, where it flows through a hydroelectric generator. Below the hydroelectric generator the water is put to irrigation use, or diverted back to the west where it sinks into the ground.

5. The earliest priority use of water on Birch Creek occurs above the diversion into the New Reno Ditch. The Applications described in paragraph 1 either attempt to transfer all other uses of Birch Creek water to lands below the hydroelectic plant or in some fashion attempt to affect the distribution of the water of Birch Creek at the bottom end of the stream.

6. Resolving the dispute over the Applications described in paragraph 1 will be expensive to the taxpayers in terms of IDWR funds and time. The contested case process likely will not fully resolve the underlying dispute between the parties to these Applications. Appeals of any of IDWR's decisions will engender further costs for the parties and IDWR.

7. It is not in the best interest of the parties, the State, IDWR or the taxpayers that multiple hearings be conducted by IDWR when the dispute centers solely around the use and distribution of the water that flows to the southern end of Birch Creek. A negotiated solution to this conflict would be the preferred method of resolving the dispute.

8. The parties to the matters described in paragraphs 1.a-b have agreed to participate in mediation before a mediator appointed by IDWR.

## ORDER

In light of the foregoing findings the Director of IDWR hereby ORDERS pursuant to IDAPA 37.01.01.101 that:



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JUL 28 1999

1. The parties to the matters described in paragraph 1 of the findings shall participate in mediation conducted by a mediator appointed by IDWR, at the time and place set by the mediator.

2. Terry Uhling is appointed mediator for IDWR. Mr. Uhling shall be reimbursed for his travel expenses for such mediation at the rates established for IDWR employees.

3. The mediation of this matter shall be completed no later than December 17, 1997. The mediator will report to the Director when mediation is complete, whether successful or not.

4. The matters described in paragraph 1 of the findings shall be stayed until the mediation is completed.

5. The parties shall comply with the mediator's instructions regarding submission of position papers, hiring and locations for the mediation.

DATED this 10th day of November, 1997.

KARL J. DREHER
Director



MICROFILMED
JUL 28 1999

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of November, 1997, I mailed a true and correct copy of the foregoing **ORDER FOR MEDIATION** on the following persons listed below by U.S. mail, postage prepaid and addressed as follows:

Norman C. Young
Idaho Department of Water Resources
1301 N. Orchard St.
Boise, Idaho 83706

Ronald D. Carlson
Idaho Dept. of Water Resources
Eastern Regional Manager
900 N. Skyline Dr.
Idaho Falls, ID 83402

Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN & CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405

Blair J. Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442

George C. Petersen, Jr., Esq.
PETERSEN MOSS OLSEN MEACHAM & CARR
485 "E" Street
Idaho Falls, ID 83402

Breck H. Barton, Esq.
BRECK BARTON & ASSOC., PA
P.O. Box 100
Rexburg, ID 83440

Jerry R. Rigby, Esq.
RIGBY THATCHER ANDRUS RIGBY KAM & MOELLER
P.O. Box 250
Rexburg, ID 83440-0250

Andy Dobson
Independent Canal Co.
Terreton, ID 83450

Garth Soderquist
Owsley Canal Co.
Terreton, ID 83450

Deborah Drew-Ellis

DEBORAH DREW-ELLIS
Legal Secretary



MICROFILMED
JUL 28 1999

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE**

**STATE OF IDAHO**

| | | |
|---|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C., | ) | **PREHEARING ORDER** |
| and | ) | |
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | ) | |

A prehearing conference regarding Application for Transfer No. 3553 was held on July 8, 1997, in Idaho Falls, Idaho. All parties were present and represented by counsel. At that conference all parties to the Application for Extension of Time to Avoid Forfeiture of Water Right No. 32-000101 were also present and represented by Counsel. Following discussion of these matters and in order to prepare and schedule the above-captioned contested matters for hearing, the Hearing Officer issues this prehearing Order pursuant to IDAPA 37.01.01.512.

(1.) The Hearing Officer finds: that Application for Transfer No. 3553 and the Extension of Time to Avoid Forfeiture of Water Right No. 32-00101 present issues that are related in that the possible forfeiture of Water Right No. 32-00101 is implicated, and that the rights of the parties to these proceedings will not be prejudiced by this consolidation. Therefore,

IT IS HEREBY ORDERED, pursuant to IDAPA 37.01.01.556 that proceedings on Application for Transfer No. 3553 and the Extension of Time to Avoid Forfeiture of Water Right No. 32-00101 shall be consolidated.

(2.) IT IS HEREBY ORDERED that the following schedule shall apply to proceedings



MICROFILMED
JUL 28 1997

on the consolidated matters. Documents to be filed with the Department and served on the parties must be filed and served in accordance with the rules of the Department on or before on the day listed.

| | |
|---|---|
| **July 25, 1997 -** | Parties shall exchange witness lists and file them with IDWR. |
| **Aug. 15, 1997 -** | Parties shall file any dispositive motions with briefs. |
| **Sept. 5, 1997 -** | Parties shall file Response Briefs, if any. |
| **Sept. 10, 1997 -** | 9:00 - 10:30 Hearing on all motions (if any). (Notice of the location to be issued at a later date.) |
| **Sept. 12, 1997 -** | Parties shall exchange prehearing briefs, if any, and exhibit lists and file them with IDWR. |
| **Sept. 22, 1997 -** | Hearing officer site visit (to be arranged). |
| **Sept. 23 and 24, 1997 -** | Hearing on all remaining issues (Notice of the location and time to be issued at a later date.). |

(3.) IT IS HEREBY ORDERED that the following procedures shall govern the September 23-24, 1997, hearing on the consolidated matters:

a. Having the ultimate burden of proof, Applicant will proceed first when giving opening statement and with evidence presentation.

b. Protestants will present their opening statements and evidence following the Applicant.

c. Applicant may present rebuttal, if necessary.

d. Opening remarks should briefly explain each party's intended presentation.

e. Written closing will be submitted pursuant to schedule to be developed after hearing.

DATED this 17th day of July, 1997.

Peter R. Anderson

PETER R. ANDERSON
Hearing Officer



MICROFILMED
JUL 28 1997

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July, 1997, I mailed a true and correct copy of the foregoing **PREHEARING ORDER** on the following persons listed below by U.S. mail, postage prepaid and addressed as follows:

Norman C. Young
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706

Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN
& CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405

George Petersen, Esq.
PETERSEN MOSS OLSEN
MEACHAM & CARR
485 "E" Street
Idaho Falls, ID 83402

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

Blair J. Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442

Deborah Drew-Ellis
Legal Secretary



MICROFILMED
JUL 28 1997

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | **ORDER APPOINTING HEARING OFFICER** |

On May 27, 1997, Kent W. Foster on behalf of Birch Creek Ranches (Birch Creek) filed a Petition For Blanket Disqualification of IDWR Employees (petition) with the Department of Water Resources (department) pursuant to IDAPA Rule 37.01.01412 (Procedure Rule 412) seeking to disqualify all department employees as hearing officer in the above captioned matter and seeking appointment of an independent hearing officer.

On May 30, 1997, the department issued an order granting the petition but did not specifically designate the hearing officer to be appointed, since the hearing officer determination had not yet been made. The department has since determined a hearing officer to be designated in this order.

**ORDER**

IT IS THEREFORE, HEREBY ORDERED that Peter Anderson, Idaho Deputy Attorney General, Natural Resources Division, is appointed to serve as the hearing officer in this contested case proceeding, pursuant to IDAPA 37.01.01.410, and is hereby authorized to hear this matter on behalf of the Idaho Department of Water Resources in accordance with the standard scope of authority under IDAPA 37.01.01.413, and the provisions of chapter 52, title 67, Idaho Code, and IDWR's Rules of Procedure.

IT IS FURTHER ORDERED that all other motions pending in this matter, and the setting of all prehearing deadlines and a hearing date shall be addressed by the newly appointed hearing officer.

DATED this 30th day of June, 1997.

KARL J. DREHER
Director

MICROFILMED
JUL 28 1997

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 30th day of June, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER APPOINTING HEARING OFFICER** to the following:

Birch Creek Ranches, L.L.C.
c/o Kent W. Foster
HOLDEN KIDWELL HAHN
& CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405-0130

Blair J. Grover
GROVER AND FAIRCHILD
215 Farnsworth Way
P.O. Box 36
Rigby, ID 83442-0036

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary



MICROFILMED
JUL 28 1997

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 30, 1997

**RE:** In the Matter of Application for Extension of Time to Avoid Forfeiture of Water Right No. 32-00101 in the name of Birch Creek Ranches, L.L.C.

Dear Interested Parties:

I have enclosed a copy of the **ORDER APPOINTING HEARING OFFICER** issued in connection with the above referenced application for extension of time to avoid forfeiture.

Please review the order and contact me directly at (208)327-7953 if you have any questions.

Sincerely,

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Region

MICROFILMED
JUL 2 8 1999

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JUN 12 1997
Department of Water Resources
Eastern Region

COPY

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**PROTEST**
**RE: EXTENSION OF TIME TO AVOID FORFEITURE**
**WATER RIGHT NO. 32-00101**

COMES NOW LaVar Newman and Louise J. Newman, hereinafter referred to as Protestants, and protest the Application for Extension of Time to Avoid a Forfeiture of Water Right No. 32-00101 filed by Birch Creek Ranches for the following reasons:

1. The Applicant does not have a good and sufficient reason for nonapplication to beneficial use of such water during the previous five (5) years.

2. Said water right, sometimes known as the George Woodie Right, was forfeited many years ago through twenty (20) or more continuous years of nonuse, and does not in fact exist.

Even Applicant, believed it had been forfeited, and it is believed Applicant commenced an action in Butte County to establish forfeiture of said water right.

There is no reason to delay the termination of that forfeiture.

3. There are numerous applications which have been filed by Applicant, and most of them have for one reason or another, not been brought to hearing. This matter should be determined, and no more delays or postponements granted Applicant.

4. The application will reduce the quantity of water under existing water rights including those of Protestants.

5. There is nothing in the rules that permit Applicant to extend time until he finds a new place of use. That could be many years and this application will simply become part of the numerous pending applications which should not be allowed.

DATED this 28th day of June, 1995.

GROVER & ARCHIBALD

BLAIR GROVER
Attorney for Protestants

MICROFILMED
JUL 28 1999

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | **ORDER GRANTING PETITION** |

On May 27, 1997, Kent W. Foster on behalf of Birch Creek Ranches (Birch Creek) filed a Petition For Blanket Disqualification of IDWR Employees (petition) with the Department of Water Resources (department) pursuant to IDAPA Rule 37.01.01412 (Procedure Rule 412) seeking to disqualify all department employees as hearing officer in the above captioned matter and seeking appointment of an independent hearing officer.

Section 67-5252, Idaho Code, and Rule 412 of the department's Rules of Procedure provide that a hearing officer's status as an employee of the agency is cause for disqualification.

**ORDER**

IT IS THEREFORE, HEREBY ORDERED that Birch Creek's petition in connection with the above captioned matter is **GRANTED.**

IT IS FURTHER HEREBY ORDERED that the department will appoint a hearing officer who is not an employee of the department.

DATED this 30th day of May, 1997.

L. GLEN SAXTON, Chief
Water Allocation Bureau

MICROFILMED
JUL 28 1997

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 30th day of May, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER GRANTING PETITION** to the following:

Birch Creek Ranches, L.L.C.
c/o Kent Foster
HOLDEN KIDWELL HAHN
& CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

Blair Grover
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary



MICROFILMED
MAY 28 1997

File

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JUN 04 1997
Department of Water Resources

Blair Grover
GROVER & ARCHIBALD
P.O. Box 36
215 Farnsworth Way
Rigby, ID 83442
(208) 745-6653

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | | |
|---|---|---|
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L. L. C. | ) ) ) ) ) ) | OBJECTION TO BLANKET DISQUALIFICATION |

COMES NOW Lavar Newman, by and through his undersigned attorney of record, Blair Grover, and for the record objections to the blanket disqualification of IDWR employees.

DATED this 30 day of May, 1997.

BLAIR GROVER
Counsel for Lavar Newman
P.O. Box 36
Rigby, ID 83442
(208) 745-6653

MICROFILMED
JUL 28 1999

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Rigby, Idaho; that I served a copy of the foregoing document or pleading upon the following person(s) at the addresses below their names either by hand delivering, by facsimile transmission (Fax), or by mailing said document in the United States mail with the correct postage thereon, a true and correct copy thereof this 8th day of May 1997.

Served:

Idaho Department of Water Resources (Mail)
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720

George Petersen, Esq. (Mail)
485 "E" Street
Idaho Falls, ID 83402

Idaho Department of Water Resources (Mail)
900 N Skyline Dr.
Idaho Falls, ID 83402

Kent W. Foster, Esq. (Mail)
P.O. Box 50130
Idaho Falls, ID 83405

BLAIR GROVER

MICROFILMED
JUL 28 1999

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

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS, P.A.
DALE W. STORER
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
SHAN B. PERRY

U.S. BANK OF IDAHO BUILDING
350 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL HOLDNLAW@SRV.NET

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

May 30, 1997

RECEIVED
JUN 0 2 1997
Department of Water Resources
Eastern Region

Mr. Harold Jones
Idaho Department of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402-1718

Re: Application for Extension of Time to Avoid Forfeiture of Water Right #32-00101

Dear Mr. Jones:

Pursuant to your request we are enclosing copies of the following documents with this letter:

1. Application for Extension of Time to Avoid Forfeiture of Water Right;

2. Letter from our office to you dated May 24, 1995;

3. Letter from you to our office dated June 9, 1995;

4. Copy of Protest filed by Blair Grover on behalf of Newmans dated June 28, 1995; and

5. Copy of your letter to our office dated July 10, 1995, enclosing copy of Protest.

I did search our file again but could not find any evidence that we have received a receipt for the $100. I believe it was our law firm's check, and if you would like us to hunt for it, it may be possible for us to find a copy.

MICROFILMED
JUL 2 8 1999

If we can provide any assistance, please let us know.

Very truly yours,

Kent W. Foster

Enclosures
G:\WPDATA\KWF\6936\JONE0530.LTR\bc

MICROFILMED
JUL 28 1999

SD-1603-3

Idaho Department Of Water Resources
Detail Receipt Summary Screen

Date: 05/29/97
Time: 11:37:03

Rec/No - E021074 AR/No - Receipt Type - CK Doc/No - 57758
From: - HOLDEN KIDWELL HAHN CRAPO Remarks -

MOST CURRENT RECEIPT Receipt Date: 05/25/1995

| Type Of Payment | Fund | FD | PCA | Obj | Subsid | Fee |
|---|---|---|---|---|---|---|
| EXT OF TIME TO AVOID FORF.- 32-00101 | 229 | 21 | 63103 | 1155 | | 100.00 |

Total Due - 100.00

| WR/No | WR Fee | WR/No | WR Fee | WR/No | WR Fee |
|---|---|---|---|---|---|

(Enter=Continue) (GOLD7=Selection Screen) (GOLD8=Cancel)

MICROFILMED
JUL 28 1999

Blair Grover
GROVER & ARCHIBALD
P.O. Box 36
215 Farnsworth Way
Rigby, ID 83442
(208) 745-6653

RECEIVED
JUN 0 3 1997
Department of Water Resources
Eastern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | | |
|---|---|---|
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L. L. C. | ) | OBJECTION TO BLANKET DISQUALIFICATION |

COMES NOW Lavar Newman, by and through his undersigned attorney of record, Blair Grover, and for the record objections to the blanket disqualification of IDWR employees.

DATED this 30 day of May, 1997.

BLAIR GROVER
Counsel for Lavar Newman
P.O. Box 36
Rigby, ID 83442
(208) 745-6653



MICROFILMED
JUL 2 8 1998

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Rigby, Idaho; that I served a copy of the foregoing document or pleading upon the following person(s) at the addresses below their names either by hand delivering, by facsimile transmission (Fax), or by mailing said document in the United States mail with the correct postage thereon, a true and correct copy thereof this 2nd day of May, 1997.

Served:

Idaho Department of Water Resources (Mail)
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720

George Petersen, Esq. (Mail)
485 "E" Street
Idaho Falls, ID 83402

Idaho Department of Water Resources (Mail)
900 N Skyline Dr.
Idaho Falls, ID 83402

Kent W. Foster, Esq. (Mail)
P.O. Box 50130
Idaho Falls, ID 83405

BLAIR GROVER



MICROFILMED
JUL 28 1999

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 30, 1997

**RE:** In the Matter of Application for Extension of Time to Avoid Forfeiture of Water Right No. 32-00101 in the name of Birch Creek Ranches, L.L.C.

Dear Interested Parties:

I have enclosed a copy of the **ORDER GRANTING PETITION** issued in connection with the above referenced extension of time to avoid forfeiture.

Please review the order and contact me directly at (208)327-7953 if you have any questions.

Sincerely,

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Region

MICROFILMED
JUL 28 1999

RECEIVED
MAY 27 1997
Department of Water Resources

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
330 Shoup Avenue, Third Floor
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR EXTENTION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES |

COMES NOW the applicant, Birch Creek Ranches, L.L.C., and hereby asserts a blanket disqualification for cause of all employees of IDWR under IDAPA 37.01.01, Rule 412, of the Rules of Procedure of the Department of Water Resources, and requests appointment of an independent hearing officer for the purposes of hearing and deciding the above entitled contested matter. To applicant's knowledge no hearing officer has yet been assigned to hear the protests to applicant's pending application for extension.

Respectfully submitted this 22 day of May, 1997.

Kent W. Foster, Esq.
Holden, Kidwell, Hahn & Crapo, P.L.L.C.

MICROFILMED
JUL 28 1999

## CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof.

**DOCUMENT SERVED:** PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES

**ATTORNEYS SERVED:**

IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720 *[First Class Mail]*

IDAHO DEPARTMENT OF WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718 *[First Class Mail]*

Blair Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, Idaho 83442-0036 *[First Class Mail]*

Dated: 5/22/97

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\KWF\6936\BRCH521.DQF:sjw

MICROFILMED
JUN 2 8 1999

MEMO

FROM: H W JONES
TO: FILE 32-00101
RE: FILE RECONSTRUCTION

THE ORIGINAL FILE FOR THE APPLICATION FOR EXTENTION OF TIME TO AVOID FORFEITURE ON RT 32-00101 HAS BEEN MISPLACED OR LOST. AT THIS POINT I HAVE GOTTEN COPIES OF THE APPLICATION,RECEIPT, PROTEST AND CORRESPONDANCE. THESE COPIES WILL NOW CONSTITUTE THE CURRENT WORK FILE.

MICROFILMED
JUL 28 1999

To Me / Peter

Date 5/28 Time 9:19 ☐AM ☐PM

# WHILE YOU WERE OUT

M Skip

of

**Phone Numbers**

Office (Area Code / Number / Ext.)

Voicemail

FAX

Pager

Mobile

e-mail

- ☑ Telephoned
- ☐ Please call
- ☐ Returned your call
- ☐ Called to see you
- ☐ Wants to see you
- ☐ Will call again
- ☐ URGENT

**Message**

Re: 32-00101 + Extension to File to Avoid Forfeiture (int. 3553-) ? Needs to finalize. (Wants to leave dormant.) —

AMPAD EFFICIENCY®

Operator Reorder

MICROFILMED

ATTACHMENT NO. 8B

Water Right No. 32-00101

RECEIVED
APR 2 1996
Department of Water Resources
Eastern Region

RECEIVED
APR 2 1996
Department of Water Resources
Eastern Region

# STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES

COPY

## Application for Extension of Time to Avoid Forfeiture of a Water Right

Section 42-222 of the Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

Complete fully the following application and submit it to the Department of Water Resources, Statehouse, Boise, Idaho 83720, with the statutory fee.

1. Name of water right holder Birch Creek Ranches
   Post office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130,
   Idaho Falls, Idaho 83405

2. The right was obtained or is evidenced by:
   a. Decree to Thomas J. Weimar (Name) in Case of AGNES B. RENO et al vs. J. R. RICHARDS et al, Dated 09/06/1922 in Ninth District Court, (Name of Court)
   County of Fremont. Fully describe decree _____

   b. License No. _____ issued by the Department of Water Resources.

   c. Claim No. [illegible] on file with the Department of Water Resources.

3. Source of water Birch Creek (Name of stream or source) tributary to Sinks

4. Date of priority of right June 4, 1909

5. Amount of water a. 2.9 c.f.s. and/or
   b. _____ acre fee/annum

6. Water is used for Irrigation (Purpose) from 4/1 (Month-Day) to 11/1 (Month-Day)
   _____ from _____ to _____
   _____ from _____ to _____

7. Location of point of diversion is SE ¼ NE ¼ of Section 3
   Township 10N, Range 29E, B.M., in Clark County;
   Additional points of diversion, if any _____

MICROFILMED
JUL 28 1999

8. Lands irrigated or place of use:

| Twp | Rge | Sec | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 29E | 2 | | | | | | | | | | | 12 | | | | | | 12 |
| | | 3 | | | | 5 | | | | | | | | | 19 | | | 28 | 52 |

Total number of acres irrigated 64

9. Give last date when water was applied to beneficial use irrigation season of 1990
Length of extension of time requested 5 years, or until April 1, 2000

10. Explain fully your reason for requesting an extension of time within which to resume the use of your water right and reasons for non-use Birch Creek Ranches purchased this right after the irrigation season of 1990 and an application to transfer this and several other rights was filed in February 1991. The proposed transfer was protested and the matter bogged down with complications for some time. Eventually the proposed new place of use became unavailable and the matter has been continued until applicant can complete the acquisition of a new proposed place of use.

I hereby assert that no one will be injured by such extension. The information contained in this application is true to the best of my knowledge.

Ted A. Sorenon

(Signature of Applicant)

Ted Sorenon, Birch Creek Ranches

Subscribed and sworn to before me this 16 day of May, 1995.

David E. Benton

(Notary Public)

My commission expires 11-06-96

---

**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby _____ said application subject to the following conditions or reasons.

_____

_____

_____

_____

_____

Witness my had this _____ day of _____, 19_____.

_____

(Director)

---

For Department Use Only

Received by _____ Date _____ Time _____ Preliminary
check by _____ Fee $_____ Receipted by _____
Date _____ Publication prepared by _____ Published in _____
Dates _____ Publication approved by _____ Date _____
Protests filed by : _____
Copies of protests forwarded by _____ Hearing held by _____
Date _____ Recommended for ☐ approval ☐ denial by _____

MICROFILMED

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

RECEIVED JUL 1 1 1995
RECEIVED JUN 0 2 1997
Department of Water Resources Eastern Region

EASTERN REGION

July 10, 1995

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

BIRCH CREEK RANCHES
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

RE: Application for Extension of time for Permit No. 32-00101

Dear Applicant:

Enclosed is a copy of a protest filed against the issuance of the above referenced application. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Idaho Code § 42-203):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The applicant must be prepared to present evidence and/or testimony addressing each of the six items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If this office can be of further assistance, please contact us.

Sincerely,

Harold W. Jones rb

HAROLD W. JONES
Water Rights Supervisor

HWJ:rb
enc.

MICROFILMED
JUL 2 8 1999

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

RECEIVED JUN 12 1995

EASTERN REGION

RECEIVED JUN 12 1997 Department of Water Resources Eastern Region

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 9, 1995

BIRCH CREEK RANCHES
C/O HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

RE: Application for Extension of time to avoid forfeiture No. 32-00101

Dear Applicant:

The Department of Water Resources acknowledges receipt of your water right permit. This office is currently in the process of advertising the application in the Post Register on June 15 & 22, 1995. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in about five weeks. State Office Personnel will conduct a complete review prior to final processing of the applications and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Harold W. Jones rb

Harold W. Jones
Water Right Supervisor

HWJ/rb

MICROFILMED

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

RECEIVED
JUN 0 2 1997
Department of Water Resources
Eastern Region

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN B. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSEN
DONALD L. HARRIS, P.A.
DALE W. STORER
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. POLLETT
FREDERICK J. HAHN, III

WEST ONE BANK BLDG.
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

May 24, 1995

Mr. Harold Jones
IDAHO DEPARTMENT OF
WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718

Dear Harold:

We are enclosing with this letter an application for extension of time to avoid forfeiture of a water right together with our check in the amount of $100 for the filing fee. Please let us know if there are concerns or questions that we might be able to assist with.

This is the water right that Birch Creek Ranches purchased from George Woodie in late 1990. As we understand it the water master records indicate that the last time water was delivered to Mr. Woodie under this right was during the irrigation season of 1990.

Thank you for your kind attention to this matter.

Very truly yours,

Kent W. Foster

Enclosure
G:\WPDATA\KWF\6936\IDWR0524.LTR:sjw

MICROFILMED
JUL 2 0 1999

**MEMORANDUM**

TO: FILE 32-00101

FROM: PAM SKAGGS

RE: TRANSFER # ~~38283~~ 553

DATE: 6-27-94

---

Original Transfer Application, Form and correspondence regarding the above referenced Transfer is located within file # 32-00061C .

MICROFILMED

JUL 28 1999

# APPLICATION FOR PERMIT
# BIRCH CREEK RANCHES LLC
# NO. T3553 *AMENDED*

| | |
|---|---|
| 04/02/1996 | Application filed |
| 01/02/1997 | Advertised POST REGISTER |
| 01/09/1997 | Date of Protest 01/20/1997 |

## PROTESTS RECEIVED

| | |
|---|---|
| 01/17/1997 | LAVAR & LOUISE NEWMAN<br>C/O BLAIR GROVER ATTORNEY |
| 01/17/1997 | D&D ENTERPRISES<br>C/O GEORGE PETERSON |

---

| | |
|---|---|
| 02/21/1997 | PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES / BY KENT W. FOSTER ESQ. |
| 03/03/1997 | OBJECTION TO PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES / BY BLAIR GROVER FOR LAVAR NEWMAN |
| 03/04/1997 | OBJECTION TO PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES / BY GEORGE C PETERSON FOR D&D ENTERPRISES |

RECEIVED
MAR 0 4 1997
Department of Water Resources
Eastern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553, OF WATER RIGHTS NOS. 32-00090, 32-00093, 32-00068, 32-00061C, 32-00069, 32-00089, 32-00092, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, AND 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | OBJECTION TO PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES |

COMES NOW D&D Enterprises, Inc., by and through its counsel of record and in response to Birch Creek Ranches, L.L.C.'s ("Birch Creek"), Petition for Blanket Disqualification of IDWR Employees, including that certain unnamed and unappointed hearing officer to be assigned to preside at the trial of the above entitled action, opposes Birch Creek's request for a blanket disqualification, on the grounds and for the following reasons:

1. A general statement and/or allegation that all employees of Idaho Department of Water Resources ("IDWR") are bias and prejudice, not supported by appropriate and necessary facts and evidence supporting said general and blanket allegations, is not sufficient nor credible and does not legally constitute bona fide evidence justifying Birch Creek's request for a blanket disqualification of all employees of IDWR and that certain unnamed and unappointed hearing officer referenced above.

2. The experience of our client D&D Enterprises, Inc., together with its responding counsel of record, has been just the opposite of the alleged experience of petitioner and its counsel in dealing with the employees of IDWR, in that at all times, our client and counsel have been treated in a very professional and courteous manner, at no time in the past have said employees discussed pending cases and/or attempted to pre-guess and/or predict the outcome for a pending case and in particular, the Birch Creek Ranches' application and its various amendments thereto, the subject of the above entitled action. Further, counsel and his client, have in the past found IDWR's hearing officers assigned to hear its water cases to be very professional, judicial at all times, honest, and not willing to discuss and/or offer an opinion as to the outcome of any pending matters scheduled for a hearing or in the process of a hearing and/or otherwise. In addition, D&D Enterprises, Inc., and counsel's experience and observation of the employees of IDWR, have been to the effect that said employees are courteous, cooperative, very protective of confidential matters involving water users, and not willing to discuss pending cases of other water users, yet willing to go the extra mile, with each of its water users and litigants, by assisting and making facts and information, upon request, available to said water user. In addition, as to an assigned hearing officer, said officers have in the past always been very fair and at all times willing to go out of their way to allow in all credible and allowable facts and evidence, and after both parties have rested, to take the appropriate and necessary time to sort out the facts to support the law as understood by said officer, and thereafter to reduce same to an appropriate written opinion.

For the reasons as heretofore detailed, our client requests and prays that the blanket disqualification directed to all employees of IDWR and the unnamed and unassigned hearing officer to preside at the trial of the above entitled matter, be denied on the grounds that said

request is inappropriate, not supported by credible evidence, not proper in its present form, in that a general statement of disqualification, without appropriate and necessary supporting evidence to back same, is demeaning and very unprofessional as to the past and present employees of IDWR and its pool of hearing examiners.

DATED this 3rd day of March, 1997.

PETERSEN, MOSS, OLSEN
CARR, ESKELSON & HALL

By: _____

George C. Petersen, Jr.
Counsel for D&D Enterprises, Inc.
485 "E" Street
Idaho Falls, Idaho 83402
(208) 523-4650

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on the 3rd day of March, 1997, I served a true and correct copy of the foregoing document on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered as defined by Rule 5(b), I.R.C.P.

| Persons Served: | Method of Service: |
|---|---|
| IDAHO DEPARTMENT<br>OF WATER RESOURCES<br>900 N. SKYLINE DRIVE<br>IDAHO FALLS, ID 83402 | [✓] Mail [ ] Hand [ ] Fax |
| KENT W. FOSTER, ESQ.<br>HOLDEN, KIDWELL, HAHN & CRAPO<br>PO BOX 50130<br>IDAHO FALLS, ID 83405 | [✓] Mail [ ] Hand [ ] Fax |
| BLAIR J. GROVER, ESQ.<br>GROVER & ARCHIBALD<br>PO BOX 36<br>RIGBY, ID 83442 | [✓] Mail [ ] Hand [ ] Fax |

George C. Petersen, Jr.

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
MAR 0 3 1997
Department of Water Resources
Eastern Region

| | |
|---|---|
| IN THE MATTER OF AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT NO 3553, OF WATER RIGHTS NOS. 32-00090, 32-00093, 32-00068, 32-00061C, 32-00069, 32-00089, 32-00092, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, AND 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | OBJECTION TO PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES |

COMES NOW Lavar Newman, by and through his undersigned attorney of record, Blair Grover, and objects to the blanket disqualification of IDWR employees for among others the following reasons:

1. Although the petition alleges bias and prejudice on behalf of all IDWR employees, it is unlikely petitioner has talked to all of said employees. Since no affidavit accompanies the motion, it is impossible to determine what has been said, or who said it. Without specific references, it is not possible to know:

A. Who has made statements that would indicate bias and prejudice; and

B. Evaluate the alleged statements to determine if in fact they indicate bias and/or prejudice.

2. It is not bias and prejudice for IDWR to have and follow a legal position so long as there is a reasonable basis for it. Indeed, the courts defer to agency interpretation of statutory provisions.[1]

[1] ". . .This court has long followed the rule that construction given to a statute by the executive and administrative officers of the state is entitled to great weight and will be followed by the courts unless there are cogent reasons for holding otherwise." *J.R. Simplot v. Idaho State Tax Commission*, 120 Idaho 849 854, 820 P.2d 1206 (1991).

Administrative agencies interpret the statutory provisions and common law which create and control them. Otherwise, there is no reason for their existence. That is true, even where the issue is a close one, or even though it may ultimately be determined the agency is wrong.

If the statements made by IDWR employees reflect the legal position of IDWR, and if that position is supported by statutory or common law, there is no bias or prejudice justifying disqualification.

I.R.C.P. 40(d)(2)(4) provides for a disqualification of a judge who is "Biased or prejudiced for or against any party or case in the action." In *Desfosses v. Desfosses*, 120 Idaho 27 (App.1991), the Court of Appeals quoting *United States v. Grinnell Corp.*, 384 U.S. 563, 86 S.Ct. 1698, 16 L.Ed.2d 778 (1966) observed:

> "The alleged bias and prejudice to be disqualifying must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case."p.29

The court also held:

> ". . . A disqualifying prejudice cannot be deduced from adverse rulings by a judge, whether they are right or wrong. . . 'Suspicion, surmise, speculation, rationalization, conjecture, innuendo, and statements of mere conclusions. . .may not be substituted for a statement of the facts.'" p.30

The bias and prejudice for judicial disqualification, although perhaps not controlling, is instructive. Bias and prejudice must come from some basis other than what is learned in the proceeding, and must arise from something other than an adverse position, even though it may be wrong.

In this case, the affidavit does not furnish nearly enough information upon which a disqualification can be granted. Without significantly more, the motion should be denied.

DATED this 27 day of Feb, 1997.

BLAIR GROVER
Counsel for Lavar Newman
P.O. Box 36
Rigby, ID 83442
(208) 745-6653

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Rigby, Idaho; that I served a copy of the foregoing document or pleading upon the following person(s) at the addresses below their names either by hand delivering, by facsimile transmission (Fax), or by mailing said document in the United States mail with the correct postage thereon, a true and correct copy thereof this 28 day of February, 1997.

| | | |
|---|---|---|
| Served: | Kent W. Foster, Esq.<br>P.O. Box 50130<br>Idaho Falls, ID 83405 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |
| | George Petersen, Esq.<br>485 "E" Street<br>Idaho Falls, ID 83402 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |
| | Idaho Department of Water Resources<br>900 N Skyline Dr.<br>Idaho Falls, ID 83402 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |

BLAIR GROVER

RECEIVED
FEB 21 1997
Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553, OF WATER RIGHTS NOS. 32-00090, 32-00093, 32-00068, 32-00061C, 32-00069, 32-00089, 32-00092, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, AND 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES |

Comes now the applicant, Birch Creek Ranches, L.L.C., and hereby asserts a blanket disqualification for cause of all employees of IDWR under IDAPA 37.01.01, Rule 412, of the Rules of Procedure of the Department of Water Resources, for bias and prejudice, and requests appointment of an independent hearing officer for the purposes of hearing and deciding the above entitled contested matter. This petition is made upon the grounds and for the reason that employees of IDWR have stated to applicant, to applicant's attorney, and to others who have repeated the contents of such statements to applicant, that the main issue in this case, the issue of the amount of transmission loss to be charged or assessed if the

proposed transfer is granted, has been prejudged and decided against applicant in advance of presentation of the full evidence and testimony, and applicant does not believe a fair and impartial hearing can be had before an employee of IDWR. Although there has been one hearing on the original application in this matter, and there have been two hearing officers previously assigned on this matter, to applicant's knowledge no hearing officer has yet been assigned to hear the protests to applicant's pending amended application for transfer.

Respectfully submitted this 20 day of February, 1997.

Kent W. Foster, Esq.
Holden, Kidwell, Hahn & Crapo, P.L.L.C.

## CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof.

**DOCUMENT SERVED:** PETITION FOR BLANKET DISQUALIFICATIONS OF IDWR EMPLOYEES

**ATTORNEYS SERVED:**

IDAHO DEPARTMENT
OF WATER RESOURCES
900 N. Skyline Drive
Idaho Falls, ID 83402 *[First Class Mail]*

Blair J. Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442 *[First Class Mail]*

George Petersen, Esq.
PETERSEN, MOSS, OLSEN,
MEACHAM & CARR
485 "E" Street
Idaho Falls, Idaho 83402 *[First Class Mail]*

Dated: 2/20/97

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\KWF\6936\BRCH0218.APP:sjw

523-4650 E02283

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
JAN 17 1997
Department of Water Resources
Eastern Region

IN THE MATTER OF THE AMENDED APPLICATION OF BIRCH CREEK RANCHES, LLC TO TRANSFER WATER RIGHT NO. 3553 TO THAT CERTAIN LOCATION DESIGNATED IN SAID AMENDED APPLICATION; AND FURTHER, TO CHANGE ITS CURRENT POINT OF DIVERSION TO A NEW POINT OF DIVERSION DESIGNATED IN ITS AMENDED APPLICATION, ET AL.

PROTEST OF D&D ENTERPRISES, INC.

D&D ENTERPRISES, INC., an Idaho corporation ("D&D") protestant, individually and by and through its counsel of record, George C. Petersen, Jr., of the firm of PETERSEN, MOSS, OLSEN, CARR, ESKELSON & HALL, in care of George C. Petersen, Jr., of PETERSEN, MOSS, OLSEN, CARR, ESKELSON & HALL, 485 "E" Street, Idaho Falls, Idaho 83402, hereby enters its protest to the amended application of Birch Creek Ranches, LLC ("Ranches"), to transfer water right no. 3553 to that certain location designated in said amended application; and further, to change its current point of diversion to a new point of diversion designated in its amended application, et al., the subject of Ranches' amended transfer of water right no. 3553, on the following grounds:

D&D Enterprises, Inc., is a substantial user of the waters of Birch Creek, for irrigation purposes, said use thereof and D&D Enterprises, Inc.'s irrigated acres are situated downstream from applicant's current point of diversion and further located upstream from applicant's acreage proposed to be irrigated by those certain waters of Birch Creek, the subject of applicant's

amended application to transfer water right no. 3553 of Birch Creek waters and further to establish a new point of diversion. From a preliminary review of the amended application to transfer Birch Creek waters and to establish a new point of diversion, the subject of amended application to transfer water right no. 3553, it appears that the proposed change of point of diversion and to further transfer those certain Birch Creek waters designated in said amended application, would be detrimental to, and not in the best interest of this protestant and other water users of the waters of Birch Creek.

**1. PROPOSED TRANSFER THE SUBJECT OF AMENDED APPLICATION TO TRANSFER WATER RIGHT NO. 3553 IS NOT IN THE BEST INTEREST OF THE DOWNSTREAM WATER USERS OF BIRCH CREEK WATERS.**

Substantial irreparable damage to water rights of protestant will result to this protestant and others, in the event there is an approval of applicant's amended application to change point of diversion and transfer those certain designated water rights the subject of applicant's amended application to transfer water right no. 3553, as follows:

(a) Applicant fails to take into consideration transmission losses from its current and existing point of diversion to its new proposed point of diversion, from its new proposed point of diversion to power plant and thereafter, from the power plant to the situs where applicant proposes to apply certain waters of Birch Creek the subject of its amended application to transfer water right no. 3553.

(b) Applicant has failed to address and/or take into consideration the water rights and priorities of current downstream water users of the waters of Birch Creek.

(c) Applicant's requested transfer of Birch Creek waters which have either been abandoned and/or forfeited, together with waters claimed from a water source that has never flowed into the waters of Birch Creek, that is, said claimed waters have historically and adversely been used by another, all of which proposed transfer of said referenced water rights, the subject of this paragraph, represent requested transfers of water rights that are not

legally owned by applicant and are not subject to transfer where title and ownership rests with another and/or others and/or have been legally abandoned.

(d) Applicant attempts in its amended application to transfer rights which are in fact duplicative and the same right.

(e) Applicant's amended application, if approved, will reduce the historical flow of the waters of Birch Creek into the local aquifer.

(f) Applicant's application makes no reference to saved water, however, in the event saved water becomes an issue, D&D and others have established a legal claim, by open and adverse use, as against any claims of applicant to any alleged saved water, if any, in that applicant by non use and failure to claim timely said claimed water, has totally abandoned same for and in excess of five (5) years.

(g) In the event the application, heretofore addressed, is approved, said application would substantially affect the water rights of this protestant to be protected under Idaho Code § 42-222.

**2. TRANSFER PROPOSED BY APPLICANT IS AN ENLARGEMENT IN USE.**

Approval of the application of applicant as proposed, would constitute an enlargement of the use of water rights of applicant, that is, on the face of the amended application, the subject of the proposed amendment to water right no. 3553 and approval of said request, would result in a substantial increase of acres to be irrigated with the same water that historically irrigated a lesser acreage.

**3. DUPLICATION OF WATER RIGHTS ON PROPOSED SITUS FOR THE TRANSFER OF THOSE CERTAIN WATER RIGHTS DESCRIBED IN APPLICANT'S AMENDED APPLICATION REPRESENTS A DUPLICATION OF WATER TO BE APPLIED TO THE SAME ACRES.**

It would appear from the record that applicant is attempting to transfer waters to acreages that currently have a valid and existing water right which in effect would substantially increase the available waters to said designated acres in an amount substantially greater than one inch per acre.

**4. THE PROPOSED TRANSFER IS NOT IN THE LOCAL PUBLIC INTEREST.**

The proposed transfer of waters, the subject of applicant's amended application to transfer water right no. 3553, would be detrimental to, and is not in the best interest of this protestant and all other affected water users of Birch Creek. Historically, the waters of Birch Creek, which are the subject of the proposed transfer, are adjacent to and contiguous to the main channel of Birch Creek and thus, currently the normal cycle of irrigation allows said waters to return to the local aquifer. The transfer proposed by applicant takes the waters several miles from the main channel of Birch Creek, all of which makes it impossible to experience the historic return flow to Birch Creek after and during the irrigation of the acreage on which applicant proposes to transfer its Birch Creek waters. The transfer proposed by applicant takes the waters in question several miles from the main channel of Birch Creek, thus no return flow to the main channel of Birch Creek after irrigating the new proposed acres to be irrigated, all of which will subsequently have a substantial environmental affect on the local aquifer, the general public, the wildlife in or around the affected aquifer, and in particular, is contrary to the public interest.

In addition, taking said water from the present dedicated situs to the new dedicated situs very likely will cause the drying up of lands that have historically been irrigated, will have a

very substantial impact on the wildlife that are adversely impacted, all contrary and in violation of the State and Federal statutes that require that the public interest of the citizens of the State of Idaho have primary consideration.

**5. PROTESTANT IS GREATLY CONCERNED ABOUT FURTHER LOSS OF BIRCH CREEK WATERS; FIRST THE LOSS SUSTAINED BY THE CHANGE OF APPLICANT'S CURRENT POINT OF DIVERSION TO ITS NEW REQUESTED POINT OF DIVERSION (A POSSIBLE LOSS OF SOMEWHERE BETWEEN 30-40% OF SAID WATERS BEING TRANSPORTED OVER THE OLD CHANNEL OF BIRCH CREEK); TOGETHER WITH THE FURTHER LOSSES SUSTAINED BY MOVING SAID WATER FROM THE NEW PROPOSED POINT OF DIVERSION TO THE POWER PLANT AND THEN FROM THE POWER PLANT TO THE PROPOSED SITUS FOR IRRIGATING.**

According to the best information available to this protestant, it would appear that the losses referenced above will be very substantial and in effect represent losses that are unconscionable and against the public interest.

**6. RIGHT OF WAY.**

Applicant does not have the necessary rights-of-way to convey the water to the proposed place of use, and will be unable to obtain the same.

**7. RIGHT TO AMEND TO INCLUDE NEWLY DISCOVERED INFORMATION.**

D&D, hereby respectfully requests the right to amend this protest following receipt of reports and recommendations from its water engineer or following the receipt of additional information from other water users on Birch Creek.

DATED this 17 day of January, 1997.

D&D ENTERPRISES, INC.

By: James S. DeMordaunt
James S. DeMordaunt
President

PETERSEN, MOSS, OLSEN,
CARR, ESKELSON & HALL

GEORGE C. PETERSEN, JR.
Counsel for D&D Enterprises, Inc.
485 "E" Street
Idaho Falls, ID 83402
(208) 523-4650

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on the 17th day of January, 1997, I served a true and correct copy of the foregoing document on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered as defined by Rule 5(b), I.R.C.P.

| Persons Served: | Method of Service: |
|---|---|
| DEPARTMENT OF WATER RESOURCES<br>900 N. SKYLINE DRIVE<br>IDAHO FALLS, ID 83402 | [ ] Mail [✓] Hand [ ] Fax |
| KENT W. FOSTER, ESQ.<br>HOLDEN, KIDWELL, HAHN & CRAPO<br>PO BOX 50130<br>IDAHO FALLS, ID 83402 | [✓] Mail [ ] Hand [ ] Fax |
| BLAIR J. GROVER, ESQ.<br>GROVER & ARCHIBALD<br>PO BOX 36<br>RIGBY, ID 83442 | [✓] Mail [ ] Hand [ ] Fax |

George C. Petersen, Jr.

LAW OFFICES
GROVER & ARCHIBALD
CHARTERED
215 FARNSWORTH WAY
P.O. BOX 36
RIGBY, IDAHO 83442-0036
PHONE (208) 745 6653
FAX (208) 745-6655

BLAIR GROVER

R. JAMES ARCHIBALD

January 16, 1997

RECEIVED
JAN 17 1997
Department of Water Resources
Eastern District Office

Department of Water Resources
ATTN: Harold Jones
900 North Skyline Dr.
Idaho Falls, ID 83402

Dear Harold:

Enclosed is a Protest to the proposed Amended Applications of Birch Creek Ranches. I am also enclosing the $25.00 filing fee.

Yours very truly,

GROVER & ARCHIBALD

BLAIR GROVER

BG:jn
enclosures
cc:Birch Creek Ranches
Lavar Newman

#E022894

RECEIVED
JAN 17 1997
Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT NO. 3553 | PROTEST OF LAVAR NEWMAN WATER RIGHT NO. 3553 |

COMES NOW, Lavar Newman and Louise J. Newman, by and through their counsel of record, Blair Grover, hereinafter referred to as Protestants, and protest the Amendment to Application of Transfer of Water Right No. 3553.

**1. THE WATER RIGHTS OF PROTESTANTS WILL BE IRREPARABLY INJURED BY THE PROPOSED AMENDED TRANSFER.**

(a) The proposed application does not take into consideration transmission losses from the existing points of diversion and/or places of use to the new points of diversion and/or places of use.

(b) The proposed transfer does not take into consideration percolation or recharge rights lost by moving the points of diversion and/or places of use.

(c) The proposed transfer does not adequately take into consideration priority rights already existing on Birch Creek.

(d) The proposed transfer seeks to transfer rights which were either abandoned and/or forfeited.

(e) The proposed transfer seeks to transfer rights which are in fact duplicative and the same right.

(f) The proposed transfer seeks to transfer water which has never reached Birch Creek and is not part of its historical flow and not subject to transfer.

(g) The proposed transfer will reduce the historical flows of Birch Creek into the local aquifer.

**2. THE PROPOSED TRANSFER IS AN ENLARGEMENT IN USE.**

The transfer constitutes an enlargement in the use of the original rights from the date of their decree through the early 1990's. It appears Applicant intends to approximately double the acreage to which the water will be applied. There is not sufficient water for the acreage, but even if there were, pursuant to the provisions of Idaho Code § 42-1426, the increased acreage will have a priority as of the date the enlarged use commences. At no time is there sufficient water in Birch Creek to satisfy such a late priority.

**3. THE PROPOSED TRANSFER IS NOT IN THE LOCAL PUBLIC INTEREST.**

The transfer will provide benefits to no one except the Applicant, and will be detrimental to all others in the area affected by the use. Historically, the water which is the subject of the proposed transfers has been used adjacent to or near the main channel of Birch Creek and has recycled into the local aquifer and back into Birch Creek. The proposed transfers will take the water several miles from the creek, thereby having a detrimental affect on Birch Creek and local aquifer and the public in and around said aquifer.

The use of the waters in and around Birch Creek, have created a desirable environment for wildlife which is beneficial to the local public interest. By removing the waters, and drying up lands historically irrigated, the wildlife will be adversely impacted contrary to the local public interest.

**4. THE TRANSFER DOES NOT CONSERVE WATER.**

The change is not consistent with conservation of water resources in the State of Idaho. All, including Applicant, acknowledge there are substantial transmission losses in Birch Creek. In fact, in an effort to reduce the losses, Applicant promoted a major effort to line the creek. Applicant, Protestants, and others shared in the cost of doing so, but it was totally unsuccessful so the losses continue. Transferring additional waters down the creek, and through several miles of ditches, will create significant additional losses not consistent with water conservation.

**5. RIGHT OF WAY.**

Applicant does not have the necessary rights of way to convey the water to the proposed place of use, and will be unable to obtain the same.

DATED this 16th day of June, 1997.

BLAIR GROVER
Counsel for Lavar Newman
P.O. Box 36
Rigby, ID 83442
(208) 745-6653

Form 222
1-87

Page 1 of 31

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

Transfer No. 3553 AMEND

**~~AMENDED~~ APPLICATION FOR TRANSFER OF WATER RIGHTS**
**PART 1**

Name of Applicant Birch Creek Ranches, L.L.C. Phone (208) 523-0620
Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., P.O Box 50130, Idaho Falls, Idaho 83405

**A. PURPOSE OF TRANSFER**

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes Applicant has acquired lands which can be irrigated with water from the lower reach of Birch Creek and desires to change the point of diversion and place of use for the rights listed herein.

**B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE**

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

| 1. Right Number | Priority | Amount (cfs/ac-ft) | Nature of Use | Period of Use |
|---|---|---|---|---|
| See Attachment No. 1 | | | | to |
| | | | | to |
| | | | | to |
| | | | | to |

2. Total amount of water being transferred 23.6 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Birch Creek tributary to sinks

4. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | SE | SW | 34 | 9N | 30E | Clark | New Reno Diversion |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

5. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 9N | 32E | 36 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | | | | | | | | | 320 |
| 9N | 33E | 31 | | | | | | | | | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 320 |
| | | 32 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | | | | | 480 |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 1,120

6. General Information:

a. Description of diversion system An earthen dam with a buried PVC liner has been placed in Birch Creek at the point of diversion to divert water into the new lined channel to the power plant which discharges the water into the old Reno Ditch

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? X Yes ____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes. See Attachment No. 2.

c. Describe the effect on the land now irrigated if the place of use is changed pursuant to this transfer: 960 acres of former Simmons land will no longer be irrigated. 160 acres of Woodie lands will no longer be irrigated. All 339 acres of Wagoner lands will still be irrigated by virtue of a trade of 4.0cfs from Simmons rights nos. 32-0067 and 32-0090 for 6.0cfs of Wagoner rights listed in Attachment No. 1

d. Remarks: All rights have been shown in Part 2 as they are listed in the relevant decrees or previous transfers. In addition however, SRBA claims for the Wagoner rights have been filed showing 339 acres as the place of use, a oint of diversion in the SENENW (lot 3) of S.5, T.9N., R.30E. and an irrigation season from 01/01 - 12/31 each year.

**ACTION OF THE DIRECTOR DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined Application for Transfer of Water Rights No. _____ and said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 1994.

_____

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00093**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | 04/01 to 11/01 | 1.60 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/10/1886

**LOCATION OF POINT(S) OF DIVERSION:**

NESW , Sec. 11, Township 10N, Range 29E
NENE , Sec. 14, Township 10N, Range 29E
NWNE , Sec. 24, Township 10N, Range 29E
SENE , Sec. 24, Township 10N, Range 29E
NESE , Sec. 24, Township 10N, Range 29E
SWSW , Sec. 29, Township 10N, Range 30E
NWNW , Sec. 32, Township 10N, Range 30E
CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | | ACRES | | ACRES | | ACRES | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NWNW | 30 | SWNW | 35 | SENW | 35 | |
| | | | NESW | 30 | NWSE | 35 | SWSE | 10 | |
| | | | SESE | 40 | | | | | 215 |
| | | 12 | SWSW | 35 | | | | | 35 |
| | | 13 | NWNW | 35 | SWNW | 40 | NWSW | 15 | 90 |
| | | 14 | NENE | 35 | SENE | 20 | | | 55 |
| | | 24 | SESE | 25 | | | | | 25 |
| | | 25 | NENE | 10 | | | | | 10 |
| | 30E | 19 | SWNW | 30 | NWSW | 10 | SWSW | 15 | |
| | | | SESW | 35 | SWSE | 20 | | | 110 |
| | | 29 | SWSW | 20 | | | | | 20 |
| | | 30 | NENE | 10 | NWNE | 20 | SWNE | 30 | |
| | | | SENE | 20 | NENW | 20 | NWNW | 35 | |
| | | | SENW | 35 | | | | | 170 |
| | | 32 | NWNE | 5 | SWNE | 15 | NENW | 35 | |
| | | | NWNW | 20 | SENW | 40 | NESW | 35 | |
| | | | NWSE | 40 | SWSE | 40 | | | 230 |
| | | | | | Total number of acres irrigated: | | | | 960 |

**CONDITIONS/REMARKS:**

TRANS NO. 3553

Water Right No. **32-00093**

**CONDITIONS/REMARKS:**

1. AS PER TRANS #2165.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00090**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | 04/01 to 11/01 | 1.60 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/10/1886

**LOCATION OF POINT(S) OF DIVERSION:**

NESW , Sec. 11, Township 10N, Range 29E
NENE , Sec. 14, Township 10N, Range 29E
NWNE , Sec. 24, Township 10N, Range 29E
NESE , Sec. 24, Township 10N, Range 29E
SENE , Sec. 24, Township 10N, Range 30E
SWSW , Sec. 29, Township 10N, Range 30E
NWNW , Sec. 32, Township 10N, Range 30E
CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | | ACRES | | ACRES | | ACRES | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NWNW | 30 | SWNW | 35 | SENW | 35 | |
| | | | NESW | 30 | NWSE | 35 | SWSE | 10 | |
| | | | SESE | 40 | | | | | 215 |
| | | 12 | SWSW | 35 | | | | | 35 |
| | | 13 | NWNW | 35 | SWNW | 40 | NWSW | 15 | 90 |
| | | 14 | NENE | 35 | SENE | 20 | | | 55 |
| | | 24 | SESE | 25 | | | | | 25 |
| | | 25 | NENE | 10 | | | | | 10 |
| | 30E | 19 | SWNW | 30 | NWSW | 10 | SWSW | 15 | |
| | | | SESW | 35 | SWSE | 20 | | | 110 |
| | | 29 | SWSW | 20 | | | | | 20 |
| | | 30 | NENE | 10 | NWNE | 20 | SWNE | 30 | |
| | | | SENE | 20 | NENW | 20 | NWNW | 35 | |
| | | | SENW | 35 | | | | | 170 |
| | | 32 | NWNE | 5 | SWNE | 15 | NENW | 35 | |
| | | | NWNW | 20 | SENW | 40 | NESW | 35 | |
| | | | NWSE | 40 | SWSE | 40 | | | 230 |

Total number of acres irrigated: 960

**CONDITIONS/REMARKS:**

TRANS NO. 3553

Water Right No. **32-00090**

**CONDITIONS/REMARKS:**

1. AS PER TRANS. #2165.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00068**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | 04/01 to 11/01 | 3.20 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |
| MILLERS SPRINGS | BIRCH CREEK |

**Priority:** 05/10/1887

**LOCATION OF POINT(S) OF DIVERSION:**

NESW , Sec. 11, Township 10N, Range 29E
NENE , Sec. 14, Township 10N, Range 29E
NWNE , Sec. 24, Township 10N, Range 29E
SENE , Sec. 24, Township 10N, Range 29E
NESE , Sec. 24, Township 10N, Range 29E
SWSW , Sec. 29, Township 10N, Range 30E
NWNW , Sec. 32, Township 10N, Range 30E
CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | | ACRES | | ACRES | | ACRES | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NWNW | 30 | SWNW | 35 | SENW | 35 | |
| | | | NESW | 30 | NWSE | 35 | SWSE | 10 | |
| | | | SESE | 40 | | | | | 215 |
| | | 12 | SWSW | 35 | | | | | 35 |
| | | 13 | NWNW | 35 | SWNW | 40 | NWSW | 15 | 90 |
| | | 14 | NENE | 35 | SENE | 20 | | | 55 |
| | | 24 | SESE | 25 | | | | | 25 |
| | | 25 | NENE | 10 | | | | | 10 |
| | 30E | 19 | SWNW | 30 | NWSW | 10 | SWSW | 15 | |
| | | | SESW | 35 | SWSE | 20 | | | 110 |
| | | 29 | SWSW | 20 | | | | | 20 |
| | | 30 | NENE | 10 | NWNE | 20 | SWNE | 30 | |
| | | | SENE | 20 | NENW | 20 | NWNW | 35 | |
| | | | SENW | 35 | | | | | 170 |
| | | 32 | NWNE | 5 | SWNE | 15 | NENW | 35 | |
| | | | NWNW | 20 | SENW | 40 | NESW | 35 | |
| | | | NWSE | 40 | SWSE | 40 | | | 230 |

Total number of acres irrigated: 960

TRANS NO. 3553

Water Right No. **32-00068**

**CONDITIONS/REMARKS:**

1. AS PER TRANS #2165.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00061C**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | to | 0.40 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/10/1888

**LOCATION OF POINT(S) OF DIVERSION:**

NESW , Sec. 11, Township 10N, Range 29E
NENE , Sec. 14, Township 10N, Range 29E
NWNE , Sec. 24, Township 10N, Range 29E
SENE , Sec. 24, Township 10N, Range 29E
NESE , Sec. 24, Township 10N, Range 29E
SWSW , Sec. 29, Township 10N, Range 30E
NWNW , Sec. 32, Township 10N, Range 30E
CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | | ACRES | | ACRES | | ACRES | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NWNW | 30 | SWNW | 35 | SENW | 35 | |
| | | | NESW | 30 | NWSE | 35 | SWSE | 10 | |
| | | | SESE | 40 | | | | | 215 |
| | | 12 | SWSW | 35 | | | | | 35 |
| | | 13 | NWNW | 35 | SWNW | 40 | NWSW | 15 | 90 |
| | | 14 | NENE | 35 | SENE | 20 | | | 55 |
| | | 24 | SESE | 25 | | | | | 25 |
| | | 25 | NENE | 10 | | | | | 10 |
| | 30E | 19 | SWNW | 30 | NWSW | 10 | SWSW | 15 | |
| | | | SESW | 35 | SWSE | 20 | | | 110 |
| | | 29 | SWSW | 20 | | | | | 20 |
| | | 30 | NENE | 10 | NWNE | 20 | SWNE | 30 | |
| | | | SENE | 20 | NENW | 20 | NWNW | 35 | |
| | | | SENW | 35 | | | | | 170 |
| | | 32 | NWNE | 5 | SWNE | 15 | NENW | 35 | |
| | | | NWNW | 20 | SENW | 40 | NESW | 35 | |
| | | | NWSE | 40 | SWSE | 40 | | | 230 |
| | | | | | Total number of acres irrigated: | | | | 960 |

**CONDITIONS/REMARKS:**

TRANS NO. 3553

Water Right No. **32-00061C**

**CONDITIONS/REMARKS:**

1. P/D COMBINED BY TRANS. 2165.

TRANS NO. 3553

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00069**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | 04/01 to 11/01 | 3.20 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/10/1888

**LOCATION OF POINT(S) OF DIVERSION:**

NESW , Sec. 11, Township 10N, Range 29E
NENE , Sec. 14, Township 10N, Range 29E
NWNE , Sec. 24, Township 10N, Range 29E
SENE , Sec. 24, Township 10N, Range 29E
NESE , Sec. 24, Township 10N, Range 29E
SWSW , Sec. 29, Township 10N, Range 30E
NWNW , Sec. 32, Township 10N, Range 30E
CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | | ACRES | | ACRES | | ACRES | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NWNW | 30 | SWNW | 35 | SENW | 35 | |
| | | | NESW | 30 | NWSE | 35 | SWSE | 10 | |
| | | | SESE | 40 | | | | | 215 |
| | | 12 | SWSW | 35 | | | | | 35 |
| | | 13 | NWNW | 35 | SWNW | 40 | NWSW | 15 | 90 |
| | | 14 | NENE | 35 | SENE | 20 | | | 55 |
| | | 24 | SESE | 25 | | | | | 25 |
| | | 25 | NENE | 10 | | | | | 10 |
| | 30E | 19 | SWNW | 30 | NWSW | 10 | SWSW | 15 | |
| | | | SESW | 35 | SWSE | 20 | | | 110 |
| | | 29 | SWSW | 20 | | | | | 20 |
| | | 30 | NENE | 10 | NWNE | 20 | SWNE | 30 | |
| | | | SENE | 20 | NENW | 20 | NWNW | 35 | |
| | | | SENW | 35 | | | | | 170 |
| | | 32 | NWNE | 5 | SWNE | 15 | NENW | 35 | |
| | | | NWNW | 20 | SENW | 40 | NESW | 35 | |
| | | | NWSE | 40 | SWSE | 40 | | | 230 |

Total number of acres irrigated: 960

**CONDITIONS/REMARKS:**

TRANS NO. 3553

Water Right No. **32-00069**

**CONDITIONS/REMARKS:**

1. AS PER TRANS # 2165.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00089**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | 04/01 to 11/01 | 2.50 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/10/1888

**LOCATION OF POINT(S) OF DIVERSION:**

NESW , Sec. 11, Township 10N, Range 29E
NENE , Sec. 14, Township 10N, Range 29E
NWNE , Sec. 24, Township 10N, Range 29E
SENE , Sec. 24, Township 10N, Range 29E
NESE , Sec. 24, Township 10N, Range 29E
SWSW , Sec. 29, Township 10N, Range 30E
NWNW , Sec. 32, Township 10N, Range 30E
CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | | ACRES | | ACRES | | ACRES | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NWNW | 30 | SWNW | 35 | SENW | 35 | |
| | | | NESW | 30 | NWSE | 35 | SWSE | 10 | |
| | | | SESE | 40 | | | | | 215 |
| | | 12 | SWSW | 35 | | | | | 35 |
| | | 13 | NWNW | 35 | SWNW | 40 | NWSW | 15 | 90 |
| | | 14 | NENE | 35 | SENE | 20 | | | 55 |
| | | 24 | SESE | 25 | | | | | 25 |
| | | 25 | NENE | 10 | | | | | 10 |
| | 30E | 19 | SWNW | 30 | NWSW | 10 | SWSW | 15 | |
| | | | SESW | 35 | SWSE | 20 | | | 110 |
| | | 29 | SWSW | 20 | | | | | 20 |
| | | 30 | NENE | 10 | NWNE | 20 | SWNE | 30 | |
| | | | SENE | 20 | NENW | 20 | NWNW | 35 | |
| | | | SENW | 35 | | | | | 170 |
| | | 32 | NWNE | 5 | SWNE | 15 | NENW | 35 | |
| | | | NWNW | 20 | SENW | 40 | NESW | 35 | |
| | | | NWSE | 40 | SWSE | 40 | | | 230 |
| | | | | | Total number of acres irrigated: | | | | 960 |

**CONDITIONS/REMARKS:**

TRANS NO. 3553

Water Right No. **32-00089**

**CONDITIONS/REMARKS:**

1. AS PER TRANS. #2165.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00092**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | 04/01 to 11/01 | 2.50 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/10/1888

**LOCATION OF POINT(S) OF DIVERSION:**

NESW , Sec. 11, Township 10N, Range 29E
NENE , Sec. 14, Township 10N, Range 29E
NWNE , Sec. 24, Township 10N, Range 29E
SENE , Sec. 24, Township 10N, Range 29E
NESE , Sec. 24, Township 10N, Range 29E
SWSW , Sec. 29, Township 10N, Range 30E
NWNW , Sec. 32, Township 10N, Range 30E
CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | | ACRES | | ACRES | | ACRES | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NWNW | 30 | SWNW | 35 | SENW | 35 | |
| | | | NESW | 30 | NWSE | 35 | SWSE | 10 | |
| | | | SESE | 40 | | | | | 215 |
| | | 12 | SWSW | 35 | | | | | 35 |
| | | 13 | NWNW | 35 | SWNW | 40 | NWSW | 15 | 90 |
| | | 14 | NENE | 35 | SENE | 20 | | | 55 |
| | | 24 | SESE | 25 | | | | | 25 |
| | | 25 | NENE | 10 | | | | | 10 |
| | 30E | 19 | SWNW | 30 | NWSW | 10 | SWSW | 15 | |
| | | | SESW | 35 | SWSE | 20 | | | 110 |
| | | 29 | SWSW | 20 | | | | | 20 |
| | | 30 | NENE | 10 | NWNE | 20 | SWNE | 30 | |
| | | | SENE | 20 | NENW | 20 | NWNW | 35 | |
| | | | SENW | 35 | | | | | 170 |
| | | 32 | NWNE | 5 | SWNE | 15 | NENW | 35 | |
| | | | NWNW | 20 | SENW | 40 | NESW | 35 | |
| | | | NWSE | 40 | SWSE | 40 | | | 230 |
| | | | | | Total number of acres irrigated: | | | | 960 |

**CONDITIONS/REMARKS:**

TRANS NO. 3553

Water Right No. **32-00092**

**CONDITIONS/REMARKS:**

1. AS PER TRANS # 2165.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00091**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | 04/01 to 11/01 | 0.50 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| PASS CREEK | BIRCH CREEK |

**Priority:** 05/01/1901

**LOCATION OF POINT(S) OF DIVERSION:**

NESW , Sec. 11, Township 10N, Range 29E
NENE , Sec. 14, Township 10N, Range 29E
NWNE , Sec. 24, Township 10N, Range 29E
SENE , Sec. 24, Township 10N, Range 29E
NESE , Sec. 24, Township 10N, Range 29E
SWSW , Sec. 29, Township 10N, Range 30E
NWNW , Sec. 32, Township 10N, Range 30E
CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | | ACRES | | ACRES | | ACRES | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NWNW | 30 | SWNW | 35 | SENW | 35 | |
| | | | NESW | 30 | NWSE | 35 | SWSE | 10 | |
| | | | SESE | 40 | | | | | 215 |
| | | 12 | SWSW | 35 | | | | | 35 |
| | | 13 | NWNW | 35 | SWNW | 40 | NWSW | 15 | 90 |
| | | 14 | NENE | 35 | SENE | 20 | | | 55 |
| | | 24 | SESE | 25 | | | | | 25 |
| | | 25 | NENE | 10 | | | | | 10 |
| | 30E | 19 | SWNW | 30 | NWSW | 10 | SWSW | 15 | |
| | | | SESW | 35 | SWSE | 20 | | | 110 |
| | | 29 | SWSW | 20 | | | | | 20 |
| | | 30 | NENE | 10 | NWNE | 20 | SWNE | 30 | |
| | | | SENE | 20 | NENW | 20 | NWNW | 35 | |
| | | | SENW | 35 | | | | | 170 |
| | | 32 | NWNE | 5 | SWNE | 15 | NENW | 35 | |
| | | | NWNW | 20 | SENW | 40 | NESW | 35 | |
| | | | NWSE | 40 | SWSE | 40 | | | 230 |
| | | | | | Total number of acres irrigated: | | | | 960 |

**CONDITIONS/REMARKS:**

TRANS NO. 3553

Water Right No. **32-00091**

**CONDITIONS/REMARKS:**

1. AS PER TRANS # 2165.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00101**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | to | 2.90 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 06/04/1909

CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | ACRES | ACRES | ACRES | TOTAL |
|---|---|---|---|---|---|---|
| 10N | 29E | 2 | SWSW | | | |
| | | 3 | SENE | NESE | SESE | |

**CONDITIONS/REMARKS:**

1. P/D INCOMPLETE - ACRES LISTED 160.
2. RIGHT IS LIMITED TO 1 MINER'S INCH PER ACRE.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00102**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | to | 4.00 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/10/1889

CLARK County

**PLACE OF USE:** See Remarks

**CONDITIONS/REMARKS:**

1. P/D & P/U INCOMPLETE.
2. ADDITIONAL RIGHTS ON CREEK LISTED IN LATER DECREE.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00073**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | to | 0.20 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/15/1909

CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | ACRES | ACRES | ACRES | TOTAL |
|---|---|---|---|---|---|---|
| 09N | 30E | 9 | NWNE<br>NENW | SWNE | SENE | |

**CONDITIONS/REMARKS:**

1. P/D INCOMPLETE - ACRES LISTED 160.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00085**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | to | 0.20 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/10/1910

CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | ACRES | ACRES | ACRES | TOTAL |
|---|---|---|---|---|---|---|
| 09N | 30E | 9 | SENW | NESW | NWSE | |

**CONDITIONS/REMARKS:**

1. P/D INCOMPLETE - ACRES LISTED 120.

TRANS NO. 3553

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00077**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | to | 0.20 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/15/1910

CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | ACRES | ACRES | ACRES | TOTAL |
|---|---|---|---|---|---|---|
| 09N | 30E | 9 | NWNE<br>NENW | SWNE | SENE | |

**CONDITIONS/REMARKS:**

1. P/D INCOMPLETE - ACRES LISTED 160.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00086**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | 04/01 to 11/01 | 0.20 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/01/1911

CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | ACRES | ACRES | ACRES | TOTAL |
|---|---|---|---|---|---|---|
| 09N | 30E | 9 | SENW | NESW | NWSE | |

**CONDITIONS/REMARKS:**

1. P/D INCOMPLETE - ACRES LISTED 120.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00078**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | to | 0.20 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/15/1911

CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | ACRES | ACRES | ACRES | ACRES | TOTAL |
|---|---|---|---|---|---|---|---|
| 09N | 30E | 9 | NWNE NENW | SWNE | SENE | | |

**CONDITIONS/REMARKS:**

1. P/D INCOMPLETE - ACRES LISTED 160.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00087**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | to | 0.20 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/01/1912

CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | ACRES | ACRES | ACRES | TOTAL |
|---|---|---|---|---|---|---|
| 09N | 30E | 9 | SENW | NESW | NWSE | |

**CONDITIONS/REMARKS:**

1. P/D INCOMPLETE - ACRES LISTED 120.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00079**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | to | 0.80 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/15/1913

CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | ACRES | ACRES | ACRES | TOTAL |
|---|---|---|---|---|---|---|
| 09N | 30E | 9 | NWNE NENW | SWNE | SENE | |

**CONDITIONS/REMARKS:**

1. P/D INCOMPLETE - ACRES LISTED 160.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00101**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | to | 2.90 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 06/04/1909

CLARK County

**PLACE OF USE:** IRRIGATION

| TWN | RGE | SEC | ACRES | ACRES | ACRES | TOTAL |
|---|---|---|---|---|---|---|
| 10N | 29E | 2 | SWSW | | | |
| | | 3 | SENE | NESE | SESE | |

**CONDITIONS/REMARKS:**

1. P/D INCOMPLETE - ACRES LISTED 160.
2. RIGHT IS LIMITED TO 1 MINER'S INCH PER ACRE.

## PART 2

## A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. **32-00102**

STAGE: **DECREED**

| BENEFICIAL USE | PERIOD OF USE | DIVERSION RATE |
|---|---|---|
| IRRIGATION | to | 4.00 CFS |

| SOURCE | TRIBUTARY OF |
|---|---|
| BIRCH CREEK | SINKS |

**Priority:** 05/10/1889

CLARK County

**PLACE OF USE:** See Remarks

**CONDITIONS/REMARKS:**

1. P/D & P/U INCOMPLETE.
2. ADDITIONAL RIGHTS ON CREEK LISTED IN LATER DECREE.

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 3**

**A. Draw a map or attach a USGS map indication the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.**

**SEE ATTACHMENT NO. 10**

SCALE: 2 inches equal 1 mile. Draw plan in ink.

**B. CHANGES IN NATURE OF USE**

| 1. New Nature of Use | Amount (cfs/ac-ft) | Hours/days/year | Period of Use |
|---|---|---|---|
| | | | to |
| | | | to |

2. Quantity and quality of return flows and location of discharge:

There are no return flows

3. Describe effects on other water uses resulting from the proposed change:

There will be no effects on other water uses from this proposed change

I hereby asset that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Earl A. Swenson, President, Birch Creek Ranches, LLC.
(Signature of Applicant)

Subscribed and sworn to before me this 28th day of March, 1994.

Kent W. Foster
Notary Public

NOTARY PUBLIC
KENT W. FOSTER
STATE OF IDAHO

Residing at Idaho Falls, Idaho
My Commission Expires Nov. 20 1998

My Commission Expires 11/10/98

**FOR DEPARTMENT USE ONLY**

Transfer contains 31 pages and _____ attachments

Received by HWJ Date 4-2-96 Protest filed by _____

Prelim. check by _____ Fee #100.00

Receipted by HWJ #E022041 Date 4-10-96

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd _____ by _____

Copy of transfer sent to lien holder _____

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ATTACHMENT NO. 1

RECEIVED
APR 2 1996
Department of Water Resources
Eastern Region

## LIST OF WATER RIGHTS FOR PART 1B.1.

| RIGHT NO. | PRIORITY | AMOUNT | NATURE OF USE | PERIOD OF USE |
|---|---|---|---|---|
| 32-00093 | May 10, 1886 | 1.6cfs | Irrigation | 04/01 to 11/01 |
| 32-00090 A | May 10, 1886 | .8cfs | Irrigation | 04/01 to 11/01 |
| 32-00068 | May 10, 1887 | 3.2cfs | Irrigation | 04/01 to 11/01 |
| 32-00061C | May 10, 1888 | .4cfs | Irrigation | 04/01 to 11/01 |
| 32-00069 | May 10, 1888 | 3.2cfs | Irrigation | 04/01 to 11/01 |
| 32-00089 | May 10, 1888 | 2.5cfs | Irrigation | 04/01 to 11/01 |
| 32-00092 | May 10, 1888 | 2.5cfs | Irrigation | 04/01 to 11/01 |
| 32-00091 | May 1, 1901 | .5cfs | Irrigation | 04/01 to 11/01 |
| 32-00101 | June 4, 1909 | 2.9cfs | Irrigation | 04/01 to 11/01 |
| 32-00102 | May 10, 1889 | 4.0cfs | Irrigation | 04/01 to 11/01 |
| 32-00073 | May 15, 1909 | .2cfs | Irrigation | 04/01 to 11/01 |
| 32-00085 | May 10, 1910 | .2cfs | Irrigation | 04/01 to 11/01 |
| 32-00077 | May 15, 1910 | .2cfs | Irrigation | 04/01 to 11/01 |
| 32-00086 | May 1, 1911 | .2cfs | Irrigation | 04/01 to 11/01 |
| 32-00078 | May 15, 1911 | .2cfs | Irrigation | 04/01 to 11/01 |
| 32-00087 | May 1, 1912 | .2cfs | Irrigation | 04/01 to 11/01 |
| 32-00079 | May 15, 1913 | .8cfs | Irrigation | 04/01 to 11/01 |

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ATTACHMENT NO. 2A

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

AGREEMENT

THIS AGREEMENT is made and entered into as of the 17 day of APRIL, 1990, by and between H. MARGERY BARE, a widow, hereinafter referred to as "Bare", and BIRCH CREEK RANCHES, INC., an Idaho Corporation, hereinafter referred to as "Birch Creek".

RECITALS:

1. Birch Creek has filed with the Department of Water Resources of the State of Idaho an Application to change both the points of diversion and place of use for nine (9) water rights (the "Birch Creek Application"). The Birch Creek Application is now set for hearing before the Idaho Department of Water Resources on April 17 and 18, 1990.

2. The water rights referred to in the Birch Creek Application are now appurtenant to property located in Clark County, Idaho, which Bare is selling pursuant to a Sale Agreement dated April 3, 1975, originally entered into between G. Marshall Bare and H. Margery Bare, husband and wife, and William T. Simmons and Theola Simmons, husband and wife, (the "Bare Sale Contract"). Subject to the terms and conditions of this Agreement, Bare and Birch Creek have agreed to amend the Bare Sale Contract and Bare has agreed not to take any action to contest or oppose the Birch Creek Application.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein, THE PARTIES AGREE AS FOLLOWS:

1. Bare agrees to withdraw her pending protest and not take any future action to oppose the Birch Creek Application.

2. If Birch Creek is granted the change in points of diversion and place of usage requested in the Birch Creek Application without any limitations or modifications which are not acceptable to Birch Creek, then Birch Creek and Bare agree to amend the Bare Sale Contract in the manner described in the Amendment Agreement attached hereto as Exhibit "1" (the "Amendment Agreement"). Within ten (10) days after the entry of a final non-appealable order (or within ten (10) days after the expiration of the appeal time on an appealable order without an appeal being filed) which approves the change in points of diversion and place of usage requested in the Birch Creek Application without any limitations or modifications

which are not acceptable to Birch Creek, the parties hereto agree to execute the Amendment Agreement and to fully comply with the terms and conditions of the Amendment Agreement.

3. In the event the Birch Creek Application is not approved without any limitations or modifications which are not acceptable to Birch Creek, then in such event Birch Creek and Bare shall not be required to execute the Amendment Agreement or to otherwise comply with the terms and conditions of the Amendment Agreement.

4. Should either party default in the performance of any of the covenants or agreements contained herein, such defaulting party shall pay to the other party all costs and expenses, including, but not limited to, a reasonable attorney fee, including such fees on appeal, which the offended party may incur in enforcing this Agreement or in pursuing any remedy allowed by law for the breach hereof, whether such is incurred by the filing of suit or otherwise.

5. In the event Birch Creek is granted the change in points of diversion and place of usage requested in the Birch Creek Application without any limitations or modifications which are not acceptable to Birch Creek and Birch Creek and Bare execute the Amendment to Contract of Sale and supplemental Escrow Instructions referred to herein as Exhibit "1", then Birch Creek agrees that if Birch Creek shall then subsequently default in the performance of the terms and conditions of the Bare Sale Contract, Birch Creek will execute any and all documents which may reasonably be necessary and consent to any and all administrative or judicial decrees which may be necessary in order for the water referred to in the Birch Creek Application to be transferred back to the original point of diversion and place of usage which was applicable prior to the approval of the Birch Creek Application.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

H. Margery Bare

BIRCH CREEK RANCHES, INC.

By: _____

Its: _____

STATE OF IDAHO, )
)ss.
County of Bonneville. )

On this 17 day of APRIL, in the year 1990, before me, the undersigned Notary Public in and for said state, personally appeared H. MARGERY BARE, a widow, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me she 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.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires FEB 1, 1991

(Seal)

STATE OF IDAHO, )
)ss.
County of Bonneville )

On this 17 day of APRIL, in the year 1990, personally appeared WM. T. SIMMONS, known to me to be the PRESIDENT of BIRCH CREEK RANCHES, INC., the Corporation that executed the foregoing instrument and acknowledged to me that such Corporation 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.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires FEB 1, 1991

(Seal)

CAH/7251h/rfs

AMENDMENT TO CONTRACT OF SALE
AND
SUPPLEMENTAL ESCROW INSTRUCTIONS

THIS AGREEMENT is made and entered into as of the _____ day of _____, 1990, by and between H. MARGERY BARE, a widow, hereinafter referred to as "Bare", and BIRCH CREEK RANCHES, INC., an Idaho Corporation, hereinafter referred to as "Birch Creek".

RECITALS:

1. Bare is the surviving spouse of G. Marshal Bare. Bare, G. Marshal Bare and William T. Simmons and Theola Simmons entered into a Sale Contract dated April 3, 1975, pertaining to the sale of certain property located in Clark County, Idaho, to William T. Simmons and Theola Simmons (the "Bare Sale Contract"). William T. Simmons is the surviving spouse of Theola Simmons and the Personal Representative of the Estate of Theola Simmons. In connection with the execution of the Bare Sale Contract such parties also entered into an Escrow Agreement (the "Escrow Agreement"), with First Security Bank of Idaho, N.A. ("First Security"). Pursuant to the Bare Sale Contract and the Escrow Agreement an Escrow Account has been established at First Security Bank of Idaho, N.A. under Contract No. 002-11227 and Contract No. 002-21227.

2. The interest of William T. Simmons and Theola Simmons in the Bare Sale Contract and Escrow Agreement has now been assigned to Birch Creek pursuant to an Assignment of Contract of Sale dated March 22, 1989 (the "Assignment Agreement").

3. The parties are executing this Agreement in order to modify and amend the terms and conditions of the Bare Sale Contract and Escrow Agreement and also to acknowledge and consent to the assignment from William T. Simmons and Theola Simmons to Birch Creek.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein, THE PARTIES AGREE AS FOLLOWS:

1. The executed original of this Agreement, together with the executed original Assignment Agreement shall be delivered to First Security as the Escrow Agent. The parties hereby consent to the assignment of the Bare Sale Contract to Birch Creek. First Security as the Escrow Agent is hereby instructed

EXHIBIT "1"

to act in accordance with the terms and conditions set forth herein.

2. The parties herein recognize and agree that the legal description set forth in the Bare Sale Contract was inaccurate. In order to correct such legal description, Bare is simultaneously with the execution of this Agreement, executing a new Warranty Deed to William T. Simmons in the form of Exhibit "A" attached hereto. Such new Warranty Deed shall be delivered to First Security and First Security is hereby instructed to accept such Warranty Deed in substitution for the Warranty Deed dated April 3, 1975, now held in escrow by First Security. The original Warranty Deed dated April 3, 1975, is to be released from escrow by First Security and delivered to Bare's legal counsel, John D. Hansen, 683 North Capital Avenue, Idaho Falls, Idaho. The parties agree that the legal description set forth in the Bare Sale Contract shall be amended to conform to the legal description set forth in the new Warranty Deed from Bare to William T. Simmons which is to be placed in escrow.

3. The payment terms of the Bare Sale Contract and Escrow Agreement which pertain to the payments now being paid under Escrow Account No. 002-11227 and which are referred to in paragraph A on page 5 of the Bare Sale Contract shall be amended to provide that the current unpaid balance of principal and interest shall be paid as follows:

(i) The principal balance shall continue to accrue interest at the rate of nine (9) percent per annum. Annual payments in the amount of $52,047.26 each shall be made commencing on December 31, 1990, and continuing on the 31st day of each December thereafter until December 31, 1993, at which time the full unpaid balance of principal and interest shall be paid in full.

4. The payment terms of the Bare Sale Contract and Escrow Agreement which pertain to the payments now being paid under Escrow Account No. 002-21227 and which are referred to in paragraph B on page 5 of the Bare Sale Contract shall be amended to provide that the current unpaid balance of principal and interest shall be paid as follows:

(i) The principal balance shall continue to accrue interest at the rate of seven (7) percent per annum. On April 1, 1990, the principal amount of $9,788.10 and in addition accrued interest shall be paid. Thereafter, principal payments in the amount of $12,001.41 each shall be paid commencing on

December 31, 1990, and continuing on December 31 of each year thereafter until December 31, 1993, at which time the full unpaid balance of principal and interest shall be paid in full. All unpaid accrued interest shall be paid on December 31, 1990; December 31, 1991; December 31, 1992; and December 31, 1993, in addition to the principal payments of $12,001.41 each which are to be paid on such dates.

5. The Bare Sale Contract and Escrow Agreement shall not be affected by this Agreement except for the amendments thereto specifically set forth herein. The Bare Sale Contract and Escrow Agreement are hereby ratified and confirmed and shall continue in full force and effect as amended.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

_____

H. Margery Bare

BIRCH CREEK RANCHES, INC.

By _____

Its _____

STATE OF IDAHO, )
)ss.
County of Bonneville. )

On this _____ day of _____, in the year 1990, before me, the undersigned Notary Public in and for said state, personally appeared H. MARGERY BARE, a widow, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me she 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.

_____
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires_____

(Seal)

STATE OF IDAHO, )
)ss.
County of Bonneville )

On this _____ day of _____, in the year 1990, personally appeared _____, known to me to be the _____ of BIRCH CREEK RANCHES, INC., the Corporation that executed the foregoing instrument and acknowledged to me that such Corporation 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.

_____
Notary Public for Idaho
(Seal) Residing at Idaho Falls, Idaho
My commission expires_____

CAH/7249h/rfs

# WARRANTY DEED

THIS INDENTURE, made this _____ day of _____, 1990, by H. MARGERY BARE, a widow, the party of the first part, and WILLIAM T. SIMMONS, individually and as Personal Representative of the Estaste of Theola Simmons, whose mailing address is P. O. Box 9, Terreton, County of Clerk, State of Idaho 83450, the party of the second part.

WITNESSETH, that the party of the first part, for and in consideration of the sum of TEN DOLLARS ($10.00) lawful money of the United States of America, and OTHER GOOD AND VALUABLE CONSIDERATION, to the party of the first part in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and by these presents, does grant, bargain, sell, convey and confirm unto the party of the second part, and to the party of the second part's heirs and assigns, forever, all of the following described real estate situated in the County of Clark, State of Idaho, to-wit:

PARCEL 1:

Township 10 North, Range 29 East, Boise Meridian, Clark County, Idaho

Section 11: W1/2 NW1/4

Township 10 North, Range 30 East, Boise Meridian, Clark County, Idaho

Section 29: SE1/4 SW1/4

Section 32: NE1/4 NW1/4
S1/2 NW1/4
N1/2 SW1/4
SE1/4 SW1/4
W1/2 E1/2
SE1/4 SE1/4

ALSO, a tract lying within Sections 29 and 32, described as follows: Beginning at the NE Corner of the NW1/4 SW1/4 of Section 29, thence West 12 chains; thence South 18 chains; thence East 2 chains; thence South 18 chains; thence West 3 chains; thence South 14 chains; thence West 7 chains; thence South 10 chains to the SW Corner of the NW1/4 NW1/4 of Section 32, thence East 20 chains; thence North 60 chains to the place of beginning.

EXHIBIT "A"

EXCEPTING THEREFROM: Beginning at a point of the Section Line between Sections 31 and 32 which is 12 chains South of corner common to Section 29, 30, 31 and 32, Township 10 North, Range 30 East, Boise Meridian; thence S 0° 04' E along said Section line for 6 chains; thence East 9 chains; thence N 1° 50' W for 8 chains and 50 links; thence N 9° 40' W for 3 chains and 48 links; thence N 7° 44' E for 2 chains and 23 links; thence N 55° 40' W for 1 chain and 75 links; thence S 0° 04' E for 7 chains and 10 links; thence West 5 chains; thence S 0° 04' E for 2 chains; thence West for 2 chains to the place of beginning.

PARCEL 2:

Township 10 North, Range 29 East, Boise Meridian, Clark County, Idaho.

| | | |
|---|---|---|
| Section 11: | SE 1/4 | NW 1/4 |
| | NE 1/4 | SW 1/4 |
| | NW 1/4 | SE 1/4 |
| | S 1/2 | SE 1/4 |
| Section 12: | SW 1/4 | SW 1/4 |
| Section 13: | W 1/2 | NW 1/4 |
| | N 1/2 | SW 1/4 |
| | SE 1/4 | SW 1/4 |
| | S 1/2 | SE 1/4 |
| Section 14: | N 1/2 | NE 1/4 |
| | SE 1/4 | NE 1/4 |
| | NE 1/4 | SE 1/4 |
| Section 24: | E 1/2 | NE 1/4 |
| | N 1/2 | SE 1/4 |
| | SE 1/4 | SE 1/4 |

EXCEPTING THEREFROM the following described two tracts situate in the E 1/2 NE 1/4.

TRACT 1: Beginning at ac a point on the North boundary of the SE 1/4 NE 1/4 of Section 24, on the West boundary of Highway No. 28 from which the NE Section Corner of Section 24 bears S

89° 56' E 160.0 feet and N 0°06' W for a distance of 1320 feet; thence N 89° 56' W for a distance of 250 feet; thence S 15° 45' E for a distance of 498.7 feet; thence S 89° 56' E for a distance of 250 feet to a point on the West right-of-way of Highway No. 28, (with a tie to Section line, S 89° 56' W 25.6 feet; thence along said Section line for a distance of 1800.0 feet to said NE Section corner of Section 24); thence along the West boundary of Highway No. 28 which is a 4° curve to the left to the point of beginning.

TRACT 2: Beginning at a point on the South boundary of the NE 1/4 NE 1/4 of Section 24, on the West boundary of Highway No. 28 (from which the NE Section Corner of Section 24 bears S 89° 56' E 160 feet and N 0° 06' W for a distance of 1320 feet;) thence N 89° 56' W for a distance of 250 feet; thence N 1° 44' W for a distance of 115.0 feet; thence N 33° 30' E for a distance of 51 feet; thence N 58° 34' E for a distance of 111.7 feet; thence South along the West right-of-way boundary of Highway No. 28 along a 4° curve to the point of beginning.

Section 25: NE 1/4 NE 1/4

Township 10 North, Range 30 East, Boise Meridian, Clark County, Idaho

Section 19: Lots 2, 3, and 4
SE 1/4 SW 1/4
SW 1/4 SE 1/4

Section 30: Lot 1
E 1/2 NW 1/4
NE 1/4

EXCEPTING THEREFROM: Beginning at the Quarter Section Corner common to Section 29 and 30, Township 10 North,

Range 30 East, Boise Meridian, where a stone in placed marked "1/4" lies; thence along the center line of Section 30, S 89° 58' W 40 chains; thence N 0° 02' W 4.86 chains ; thence N 57° 28' E 20.72 chains; thence N 83° 53' E 22.65 chains; thence S 0° 04' E along the Section line common to Sections 29 and 30, 18.38 chains to the point of beginning.

PARCEL 3: Township 10 North, Range 30 East of the Boise Meridian, Clark County, Idaho

Section 32: Beginning at a point that is S 0° 04' E along the Section line 400.0 feet and East 462.0 feet from the NW Corner of said Section 32 and running thence N 0° 04' W 208.60 feet; thence S 56° 35' 20" E 115.55 feet; thence S 7° 44' W 147.18 feet; thence S 9° 40' E 30.0 feet; thence S 78° 11' 30: W 83.15 feet; thence N 0° 04' W 47.46 feet to the point of beginning.

Together with all tenements, hereditaments and appurtenances belonging or appertaining thereto, including but not limited to, all buildings, fences, headgates situate thereon, and all water rights and ditch rights and all B.L.M. and forest grazing privileges appurtenant thereto.

SUBJECT TO THE FOLLOWING:

(1) Taxes and water assessments levied and assessed against said property for the year 1975 and thereafter.

(2) Right-of-way conveyed to State of Idaho for highway purposes as to 100 feet strip over and across SW 1/4 SE 1/4 and SW 1/4 and SW 1/4 NW 1/4 of Section 32, Township 10 North, Range 30 East, Boise Meridian, by Instrument recorded July 14, 1938, in Book 8 of Deeds page 603, together with an easement for construction of irrigation or drain ditches and structures and surface drain ditches as may be necessary for proper construction of highway on property adjacent to right-of-way granted.

(3) Rights-of-way conveyed to State of Idaho, for highway purposes as to 100 foot strip over NE 1/4 NW 1/4 of Section 32, Township 10 North, Range 30 East, Boise Meridian, by easements recorded July 14, 1938, in

Book 9 of Deeds, page 604, 605 and 607, together with an easement for construction of irrigation or drain ditches and structures and surface drain ditches as may be necessary for proper construction of highway on property adjacent to right-of-way granted.

(4) Right-of-way for highway by Right-of-Way Deed granted to the State of Idaho describing highway 100 feet wide over the NE 1/4 NE 1/4 of Section 14, Township 10 North, Range 39 East, Boise Meridian, dated January 8, 1938, recorded July 14, 1938, in Book 9 of Deeds, page 611, records of Clark County, Idaho.

(5) Right-of-Way for highway purposes granted to the State of Idaho, over and across SE 1/4 NW 1/4 of Section 11, Township 10 North, Range 29 Eat, Boise Meridian, and easement for relocation of ditches, etc., by instrument dated January 14, 1938, recorded July 14, 1938, in Book 9 of Deeds, page 612, records of Clark County, Idaho.

(6) Order of Condemnation for highways in favor of the County of Clark, Plaintiff, dated November 10, 1939, and recorded in Book 2 of Judgments, page 297, records of Clark County, Idaho.

(7) Easements over portion of said land for pole lines and incidental purposes as granted Utah Power and Light Company, by deeds recorded October 20, 1965, in Book 5 of Misc., page 228, 229, 230 and 231, records of Clark County, Idaho.

(8) An easement over a portion of said land for pole lines and incidental purposes as granted Utah Power & Light Company by deed recorded January 4, 1968, as filing No. 26268, records of Clark County, Idaho.

(9) A Pole Line Easement with rights incidental thereto as set forth in a document

Granted by: William T. Simmons and Theola Simmons, husband and wife.

Granted to: Utah Power & Light Company, a corporation

Dated: July 27, 1977

Recorded: September 1, 1977, at 10:19 a.m. as Instrument No. 32186, records of Clark County, Idaho.

(10) A Pole Line Easement with rights incidental thereto as set forth in a document

Granted by: William T. Simmons and Theola Simmons, husband and wife.

Granted to: Utah Power & Light Company, a corporation

Dated: September 29, 1977

Recorded: November 7, 1977, at 9:05 a.m. as Instrument No. 32309, records of Clark County, Idaho.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the property, as well in law as in equity, of the party of the first part.

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises together with the appurtenances unto the party of the second part, and to the party of the second part's heirs and assigns forever. The party of the first part and the party of the first part's heirs shall and will warrant and by these presents forever defend the premises in the quiet and peaceable possession of the party of the second part, and the party of the second part's heirs and assigns, against the party of the first part, and the party of the first part's heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same.

In construing this deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the party of the first part hereunto has set her hand the day and year first above written.

_____

H. Margery Bare, a Widow

STATE OF IDAHO, )
)ss.
County of Bonneville. )

On this _____ day of _____, in the year 1990, before me, the undersigned Notary Public in and for said state, personally appeared H. MARGERY BARE, a widow, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me she 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.

_____
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires_____

(Seal)

CAH/7248h/cfs

ATTACHMENT NO. 2B

**Farm Credit Services**

217 North Second East
P.O. Box 157
Rexburg, Idaho 83440
208/356-4442

March 27, 1996

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

Ted Sorenson
5203 South 11 East
Idaho Falls, ID 83404

Dear Mr. Sorenson

Ag America, FCB, successor in interest to The Federal Land Bank of Spokane, holds a mortgage on the real property described on the attached Exhibit A. As an authorized agent of said mortgage holder I hereby give consent to the transfer of any water rights appurtenant to the real property described on the attached Exhibit A.

AgAmerica, FCB, successor in interest to
The Federal Land Bank of Spokane

By: Darren Lewis
Authorized Agent

EXHIBIT A

TRACT ONE:
Township 10 North, Range 29 East, Boise Meridian,
Clark County, Idaho.
Section 11: W½NW¼

Township 10 North, Range 30 East, Boise Meridian,
Clark County, Idaho.
Section 29: SE¼SW¼
Section 32: NE¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, W½E½, SE¼SE¼
ALSO, a tract lying within Sections 29 and 32, described as follows: Beginning at the Northeast corner of the NW¼SW¼ of Section 29; thence
West 12 chains; thence
South 18 chains; thence
East 2 chains; thence
South 18 chains; thence
West 3 chains; thence
South 14 chains; thence
West 7 chains; thence
South 10 chains to the Southwest corner of the NW¼NW¼ of Section 32; thence
East 20 chains; thence
North 60 chains to the Place of Beginning;
EXCEPTING:
Beginning at a point on the Section line between Sections 31 and 32 which is 12 chains South of the Section corner common to Sections 29, 30, 31 and 32, T. 10 N., R. 30 E.B.M.; thence
South 0°04' East along said Section line for 6 chains; thence
East 9 chains; thence
North 1°50' West for 8 chains and 50 links; thence
North 9°40' West for 3 chains and 48 links; thence
North 7°44' East for 2 chains and 23 links; thence
North 55°40' West for 1 chain and 75 links; thence
South 0°04' East for 7 chains and 10 links; thence
West 5 chains; thence
South 0°04' East for 2 chains; thence
West for 2 chains to the Place of Beginning.

TRACT TWO:
Township 10 North, Range 29 East, Boise Meridian,
Clark County, Idaho.
Section 11: SE¼NW¼, NE¼SW¼, NW¼SE¼, S½SE¼.
Section 12: SW¼SW¼.
Section 13: W½NW¼, N½SW¼, SE¼SW¼, S½SE¼.
Section 14: N½NE¼, SE¼NE¼, NE¼SE¼.
Section 24: E½NE¼, N½SE¼, SE¼SE¼, EXCEPTING therefrom the following described two tracts situated in the E½NE¼.

Tract One: Beginning at a point on the North boundary of the SE¼NE¼ of Section 24, on the West boundary of Highway No. 28 from which the Northeast Section corner of Section 24 bears South 89°56' East 160.0 feet and North 0°06' West for a distance of 1320 feet; thence North 89°56' West for a distance of 250 feet; thence South 15°45' East for a distance of 498.7 feet; thence South 89°56' East for a distance of 250 feet to a point on the West right of way of Highway No. 28, (with a tie to Section line, South 89°56' West 25.6 feet; thence along said Section line for a distance of 1800.0 feet to said Northeast Section corner of Section 24); thence along the West boundary of Highway No. 28 which is a 4°curve to the left to the Point of Beginning.
Tract Two: Beginning at a point on the South boundary of the NE¼NE¼ of Section 24, on the West boundary of Highway No. 28 (from which the Northeast Section corner of Section 24 bears South 89°56' East 160 feet and North 0°06' West for a distance of 1320 feet;) thence North 89°56' West for a distance of 250 feet; thence North 1°44' West for a distance of 115.0 feet; thence North 44°21' East for a distance of 51 feet; thence South 74°38' East for a distance of 111.7 feet; thence South along the West right of way boundary of Highway No. 28 along a 4° curve to the Point of Beginning.

Section 25: NE¼NE¼.

Township 10 North, Range 30 East, Boise Meridian, Clark County, Idaho.
Section 19: Lots 2, 3 and 4, SE¼SW¼, SW¼SE¼.

Section 30: Lot 1, E½NW¼, NE¼, EXCEPTING therefrom the following described tract:
Beginning at the quarter Section corner common to Section 29 and 30, Township 10 North, Range 30 East, B.M., where a stone in place marked "1/4" lies; thence along the center line of Section 30, South 89°58' West 40 chains; thence North 0°02' West 4.86 chains; thence North 57°28' East 20.72 chains; thence North 83°53' East 22.65 chains; thence South 0°04' East along the Section line common to Sections 29 and 30, 18.38 chains to the Point of Beginning.

ATTACHMENT NO. 3A

46509

RECEIVED

APR 0 2 1996

Department of Water Resources
Eastern Region

# WARRANTY DEED
## (With After Acquired Property Clause)

THIS INDENTURE is made this 29th day of February, 1996, by **WILLIAM T. SIMMONS**, individually and as Personal Representative of the Estate of Theola Simmons, the "Grantor", and **BIRCH CREEK RANCHES, L.L.C.**, an Idaho limited liability company, whose mailing address is 5203 South 11 East, Idaho Falls, Idaho, 83404, the "Grantee".

**W I T N E S S E T H:**

That the Grantor, for and in consideration of the sum of TEN DOLLARS ($10.00) lawful money of the United States of America, and other good and valuable consideration, to the Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and by these presents does grant, bargain, sell, convey and confirm unto the Grantee, and to the Grantee's successors and assigns forever, all of the following described property in the County of Clark, State of Idaho, to-wit:

**Tract 1:**

Township 10 North, Range 29 East, Boise Meridian, Clark County, Idaho

Section 11: W½ NW¼

Township 10 North, Range 30 East, Boise Meridian, Clark County, Idaho

Section 29: SE¼ SW¼

Section 32: NE¼ NW¼
S½ NW¼
N½ SW¼
SE¼ SW¼
W½ E½
SE¼ SE¼

ALSO, a tract lying within Sections 29 and 32, described as follows: Beginning at the NE Corner of the NW¼ SW¼ of Section 29, thence West 12 chains; thence South 18 chains; thence East 2 chains; thence South 18 chains; thence West 3 chains; thence South 14 chains; thence West 7 chains; thence South 10 chains to the SW Corner of the NW¼ NW¼ of Section 32, thence East 20 chains; thence North 60 chains to the place of beginning.

EXCEPTING THEREFROM: Beginning at a point of the Section Line between Sections 31 and 32 which is 12 chains South of corner common to Sections 29, 30, 31 and 32, Township 10 North, Range 30 East, Boise Meridian; thence S0°04'E along said Section line for 6 chains; thence East 9 chains; thence N1°50'W for 8 chains and 50 links; thence N9°40'W for 3 chains and 48 links; thence N7°44'E for 2 chains and 23 links; thence N55°40'W for 1 chain and 75 links; thence S0°04'E for 7 chains and 10 links; thence West 5 chains; thence S0°04'E for 2 chains; thence West for 2 chains to the place of beginning.

**Tract 2:**

Township 10 North, Range 29 East, Boise Meridian, Clark County, Idaho

Section 11: SE¼ NW¼
NE¼ SW¼
NW¼ SE¼
S½ SE¼

Section 12: SW¼ SW¼

Section 13: W½ NW¼
N½ SW¼
SE¼ SW¼
S½ SE¼

Section 14: N½ NE¼
SE¼ NE¼
NE¼ SE¼

Section 24: E½ NE¼
N½ SE¼
SE¼ SE¼

Microfilm No. 46509
11 Day March 19 96
At 15:58 P M
JOANN C. TAVENNER
Fee 27.00
Erica Ruiz Deputy
Recorded for
Holden, Kidwell, Hahn & Crapo

EXCEPTING THEREFROM the following described three tracts situate in the E½ NE¼.

Tract 1: Beginning at a point on the North boundary of the SE¼ NE¼ of Section 24, on the West boundary of Highway No. 28 from which the NE Section Corner of Section 24 bears S89°56'E 160.0 feet and N0°06'W for a distance of 1320 feet; thence N89°56'W for a distance of 250 feet; thence S15°45'E for a distance of 498.7

feet; thence S89°56'E for a distance of 250 feet to a point on the West right-of-way of Highway No. 28, (with a tie to Section line, S89°56'W 25.6 feet; thence along said Section line for a distance of 1800.0 feet to said NE Section corner of Section 24); thence along the West boundary of Highway No. 28 which is a 4° curve to the left to the point of beginning.

Tract 2: Beginning at a point on the South boundary of the NE¼ NE¼ of Section 24, on the West boundary of Highway No. 28 (from which the NE Section Corner of Section 24 bears S89°56'E 160 feet and N0°06'W for a distance of 1320 feet;) thence N89°56'W for a distance of 250 feet; thence N1°44'W for a distance of 115.0 feet; thence N33°30'E for a distance of 51 feet; thence N68°34'E for a distance of 111.7 feet; thence South along the West right-of-way boundary of Highway No. 28 along a 4° curve to the point of beginning.

Tract 3: Commencing at the NE Corner of said Section 24, thence S00°01'26"W along the East line of said Section a distance of 1800.00 feet; thence N89°48'34"W a distance of 23.53 feet to a point on the Westerly right-of-way line of Idaho State Highway No. 28, said point being the True Point of Beginning; thence continuing N89°48'34"W a distance of 170.00 feet, more less to the centerline of Birch Creek; thence Southerly along said centerline of Birch Creek on the following courses: S33°25'27"W 75.92 feet; S13°20'06"E 138.74 feet; S50°11'40"E 23.43 feet; S14°53'11"E 163.49 feet; S04°16'33"E 107.30 feet; thence S90°00'00"E a distance of 140.64 feet to a point on the Westerly right-of-way line of Idaho State Highway No. 28; thence N03°22'00"W along said Westerly right-of-way line, a distance of 434.12 feet to a Brass Cap Monument marking a point of curvature Station 2532+65.8 Back 2532+66.2 Ahead; thence Northwesterly along said Westerly right-of-way line on a 04°08'40" Degree curve to the left, having a central angle of 01°50'47", a radius of 1382.50 feet, a chord bearing of N04°17'23"W, a chord distance of 44.55 feet, and a arc distance of 44.55 feet to the True Point of Beginning.

Section 25: NE¼ NE¼

Township 10 North, Range 30 East, Boise Meridian, Clark County, Idaho

Section 19: Lots 2, 3, and 4
SE¼ SW¼
SW¼ SE¼

Section 30: Lot 1
E½ NW¼
NE¼

EXCEPTING THEREFROM: Beginning at the Quarter Section Corner common to Section 29 and 30, Township 10 North, Range 30 East, Boise Meridian, where a stone in placed marked "1/4" lies; thence along the center line of Section 30, S89°58'W 40 chains; thence N0°02'W 4.86 chains; thence N57°28'E 20.72 chains; thence N83°53'E 22.65 chains; thence S0°04'E along the Section line common to Sections 29 and 30, 18.38 chains to the point of beginning.

ALSO EXCEPTING THEREFROM the following described property in Sections 19 and 30 of Township 10 North Range 30 East Boise Meridian, hereinafter referred to as the "Gray Place", to-wit:

All of the North Half of Section 30, Township 10 North, Range 30 East lying East of the Highway 28 right-of-way. The Southwest 1/4 of the Southeast ¼, Section 19, Township 10 North, Range 30 East; the Southeast ¼ of the Southwest ¼ of Section 19, Township 10 North, Range 30 East lying East of Highway 28 right-of-way; Lot 4 of Section 19, Township 10 North, Range 30 East lying East of Highway 28 right-of-way. That portion of Lot 3, Section 19, Township 10 North, Range 30 East, East of Highway 28 right-of-way and South of a line more particularly described as follows: Commencing at the West ¼ corner of said Section 19, from which the NW corner of Section 19 bears N00°00'46"E a distance of 2642.40 feet, run thence S45°09'08"E a distance of 346.27 feet to a point on the easterly right-of-way of Highway 28 and the POINT LINE OF BEGINNING; thence S71°46'41"E to the East section line of Lot 3. Including any water rights to Miller Spring located in Section 19, Township 10 North, Range 30 East, Boise Meridian. EXCEPTING therefrom the following: Beginning at the Quarter Section Corner common to Section 29 and 30, Township 10 North, Range 30 East, Boise Meridian, where a stone in placed marked "¼" lies; thence along the center line of Section 30, S89°58'W 40 chains; thence N0°02'W 4.86 chains; thence N57°28'E 20.72 chains; thence N83°53'E 22.65 chains; thence S0°04'E along the Section line common to Sections 29 and 30, 18.38 chains to the point of beginning.

TOGETHER WITH the following:

1. All water rights which arise from Birch Creek which are appurtenant to the Gray Place. The Seller is by this instrument retaining title to the Gray Place and any water rights in Miller Spring located on the Gray Place. Provided, however, the Seller is transferring by this instrument to the Buyer all water rights arising from Birch Creek which are appurtenant to the Gray Place.

2. All State of Idaho, Bureau of Land Management and United States Forest Service Grazing privileges and permits which are appurtenant to the above described property and the Gray Place, or granted in connection with the use, possession or ownership of such property.

3. All contract rights and rights to payment pertaining to the above described property (including the Gray Place) under the current contract for the Conservation Reserve Program administered by the United States Department of Agriculture and the Agricultural Stabilization and Conservation Committee.

4. All and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, including, but not limited to, all buildings, fences, headgates situate thereon, and all mineral rights, water rights and ditch rights, and the reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the property, as well in law as in equity, of Seller.

SUBJECT TO the following:

1. Right-of-way conveyed to State of Idaho for highway purposes as to 100 feet strip over and across SW¼ SE¼ and SW¼ and SW¼ NW¼ of Section 32, Township 10 North, Range 30 East, Boise Meridian, by Instrument recorded July 14, 1938, in Book 8 of Deeds, page 603, together with an easement for construction of irrigation or drain ditches and structures and surface drain ditches as may be necessary for proper construction of highway on property adjacent to right-of-way granted.

2. Rights-of-way conveyed to State of Idaho, for highway purposes as to 100 foot strip over NE¼ NW¼ of Section 32, Township 10 North, Range 30 East, Boise Meridian, by easements recorded July 14, 1938, in Book 9 of Deeds, page 604, 605, and 607, together with an easement for construction of irrigation or drain ditches and structures and surface drain ditches as may be necessary for proper construction of highway on property adjacent to right-of-way granted.

3. Right-of-way for highway by Right-of-Way Deed granted to The State of Idaho describing highway 100 feet wide over the NE¼ NE¼ of Section 14, Township 10 North, Range 39 East, Boise Meridian, dated January 8, 1938, recorded July 14, 1938, in Book 9 of Deeds, page 611, records of Clark County, Idaho.

4. Right-of-way for highway purposes granted to The State of Idaho, over and across SE¼ NW¼ of Section 11, Township 10 North, Range 29 East, Boise Meridian, and easement for relocation of ditches, etc., by instrument dated January 14, 1938, recorded July 14, 1938, in Book 9 of Deeds, page 612, records of Clark County, Idaho.

5. Order of Condemnation for highways in favor of the County of Clark, Plaintiff, dated November 10, 1939, and recorded in Book 2 of Judgments, page 297, records of Clark County, Idaho.

6. Easements over portion of said land for pole lines and incidental purposes as granted Utah Power and Light Company, by deeds recorded October 20, 1965, in Book 5 of Misc., page 228, 229, 230 and 231, records of Clark County, Idaho.

7. Mortgage dated November 22, 1974, executed by G. Marshall Bare and H. Margery Bare, husband and wife, to The Federal Land Bank of Spokane, a corporation, to secure the payment of Two Hundred Fifty-Five Thousand Dollars ($255,000.00) and interest; recorded November 27, 1974, as filing No. 30119, records of Clark County, Idaho.

8. A Notice of Real Estate Sale Contract and Lien Interests Against Escrowed Contract and Proceeds Thereunder by and between the parties named below:

| | |
|---|---|
| Dated: | April 3, 1975 |
| Seller: | G. Marshall Bare and H. Margery Bare, husband and wife. |
| Buyer: | William T. Simmons and Theola Simmons, husband and wife. |
| Recorded: | April 3, 1975, at 10:15 a.m. as Instrument No. 30405, records of Clark County, Idaho. |

9. Assignment of Real Estate Sale Contract by and between the following parties:

| | |
|---|---|
| Dated: | June 25, 1984 |
| Executed by: | G. Marshall Bare and H. Margery Bare, husband and wife, and The Idaho First National Bank |
| Recorded: | July 13, 1984, at 9:20 a.m. as Instrument No. 38659, records of Clark County, Idaho. |

10. Assignment of Real Estate Sale Contract by and between the following parties:

Dated: May 28, 1985
Executed by: G. Marshall Bare and H. Margery Bare, husband and wife, and The Idaho First National Bank, an Idaho banking corporation.
Recorded: June 7, 1985, at 9:23 a.m. as Instrument No. 39314, records of Clark County, Idaho.

11. A Pole Line Easement with rights incidental thereto as set forth in a document

Granted by: William T. Simmons and Theola Simmons, husband and wife.
Granted to: Utah Power & Light Company, a corporation
Dated: July 27, 1977
Recorded: September 1, 1977, at 10:19 a.m. as Instrument No. 32186, records of Clark County, Idaho.

12. A Pole Line Easement with rights incidental thereto as set forth in a document

Granted by: William T. Simmons and Theola Simmons, husband and wife.
Granted to: Utah Power & Light Company, a corporation
Dated: September 29, 1977
Recorded: November 7, 1977, at 9:05 a.m. as Instrument No. 32309, records of Clark County, Idaho.

13. A Memorandum of Contract of Sale dated July 1, 1986, by and between G. Marshall Bare and H. Margery Bare, husband and wife, and William T. Simmons and Theola Simmons, husband and wife, recorded as Instrument No. 40283 on July 3, 1986, at 10:22 a.m., records of Clark County, Idaho. Rerecorded as Instrument No. 41682 on April 5, 1988, at 3:59 p.m., records of Clark County, Idaho.

14. The interest of G. Marshall Bare and H. Margery Bare under that certain Contract of Sale dated April 3, 1975, entered into between G. Marshall Bare and H. Margery Bare, husband and wife, as Seller and William T. Simmons and Theola Simmons, husband and wife, as Buyer (the "BARE CONTRACT"). Grantee has agreed to assume the obligations of Grantor under the BARE CONTRACT and to pay the same in full according to the terms thereof.

15. All existing easements or claims of easements, patent reservations, rights of way, protective covenants, zoning ordinances and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, rents, issues and profits therefrom; and all estate, right, title and interest in and to the property, as well in law as in equity, of the Grantor.

TO HAVE AND TO HOLD the premises and the appurtenances unto the Grantee, and to the Grantee's successors and assigns forever. The Grantor and the Grantor's heirs shall warrant and defend the premises in the quiet and peaceable possession of the Grantee and the Grantee's successors and assigns, against the Grantor and the Grantor's heirs, and against every person whomsoever who lawfully holds (or who later lawfully claims to have held) rights in the premises as of the date hereof.

Grantor by this instrument is hereby granting, conveying and confirming unto Grantee and to Grantee's successors and assigns forever all right, title and interest now owned or hereafter acquired by the Grantor in the above-described property.

In construing this Warranty Deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has executed the within instrument the day and year first above written.

William T. Simmons

William T. Simmons, Individually

William T. Simmons

William T. Simmons, as personal representative of the Estate of Theola Simmons

STATE OF IDAHO )
)ss.
County of Jefferson )

On the this 29 day of February, 1996, before me, the undersigned, a notary public, in and for said State, personally appeared **WILLIAM T. SIMMONS**, individually, known or identified to me 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.

Jay Simmons
Notary Public for Idaho
(seal) Residing at Jefferson County, Idaho
My Commission Expires: June 9 2001

STATE OF IDAHO )
)ss.
County of Jefferson )

On the 29 day of February, 1996, before me, the undersigned, a notary public in and for said State, personally appeared **WILLIAM T. SIMMONS**, known or identified to me to be the person whose name is subscribed to the within instrument as Personal Representative of the Estate of Theola Simmons and acknowledged to me that he executed the same as such Personal Representative.

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

Jay Simmons
Notary Public for Idaho
(seal) Residing at Jefferson County, Idaho
My Commission Expires: June 9 2001

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ATTACHMENT NO. 3B

46508

RECEIVED

APR 0 2 1996

Department of Water Resources
Eastern Region

# GRANT DEED
## (With After Acquired Property Clause)

THIS INDENTURE is made this 29th day of January, 1996, between **WILLIAM T. SIMMONS**, individually and as Personal Representative of the Estate of Theola Simmons, the "Grantor", and **BIRCH CREEK RANCHES, L.L.C.**, an Idaho limited liability company, whose mailing address is 5203 South 11 East, Idaho Falls, Idaho, 83404, the "Grantee".

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) lawful money of the United States of America, and other good and valuable consideration, to the Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, and by these presents does grant and confirm unto the Grantee, and to Grantee's successors and assigns forever, all of the following described property in the County of Clark, State of Idaho, to-wit:

Township 10 North, Range 30 East of the Boise Meridian, Clark County, Idaho.

Section 32: Beginning at a point that is S0°04'E along the Section line 400.0 feet and East 462.0 feet from the NW Corner of said Section 32 and running thence N0°4'W 208.60 feet; thence S56°35'20" E 115.55 feet; thence S7°44'W 147.18 feet; thence S9°40'E 30.0 feet; thence S78°11'30"W 83.15 feet; thence N0°04'W 47.46 feet to the point of beginning.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, and rents, issues and profits therefrom; and all estate, right, title and interest in and to said property, as well in law as in equity, of the Grantor.

TO HAVE AND TO HOLD, the premises and the appurtenances unto the Grantee, and to Grantee's successors and assigns forever.

Grantor by this instrument is hereby granting, conveying and confirming unto Grantee and to Grantee's successors and assigns forever all right, title and interest now owned or hereafter acquired by the Grantor in the above-described property.

In construing this deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has executed the within instrument the day and year first above written.

William T. Simmons, Individually

William T. Simmons, as personal representative of the Estate of Theola Simmons

STATE OF IDAHO )
)ss.
County of Jefferson )

On the this 29 day of January, 1996, before me, the undersigned, a notary public, in and for said State, personally appeared **WILLIAM T. SIMMONS**, individually, known or identified to me 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.

(seal)

Notary Public for Idaho
Residing at Jefferson County, Idaho
My Commission Expires: June 9 2001

46508
Microfilm No. _____
11 Day March 19 96
At 15:56 P M
JO ANN S. TAVENNER
Clerk
Fee 9.00
Erica Ruiz Deputy
Recorder
Holden, Kidwell, Hahn & Crapo

STATE OF IDAHO )
)ss.
County of Jefferson )

On the 29 day of January, 1996, before me, the undersigned, a notary public in and for said State, personally appeared **WILLIAM T. SIMMONS**, known or identified to me to be the person whose name is subscribed to the within instrument as Personal Representative of the Estate of Theola Simmons and acknowledged to me that he executed the same as such Personal Representative.

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

Notary Public for Idaho
Residing at Jefferson County, Idaho
My Commission Expires: June 9 2001

(seal)

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ATTACHMENT NO. 3C

RECEIVED 46507

APR 0 2 1996

Department of Water Resources
Eastern Region

# QUITCLAIM DEED

THIS INDENTURE is made this 29th day of January, 1996, by and between **WILLIAM T. SIMMONS**, individually, the "Grantor," and **WILLIAM T. SIMMONS**, Trustee of the Theola Simmons Family Trust, or any successor trustee, whose mailing address is P.O. Box 9, Terreton, Idaho, 83450, the "Grantee".

**W I T N E S S E T H:**

That the Grantor, for and in consideration of the sum of Ten and No/100 Dollars ($10.00) lawful money of the United States of America and other good and valuable consideration to Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, does by these presents remise, release and forever quitclaim unto the Grantee, and to Grantee's successors and assigns forever, all right, title and interest now owned or hereafter acquired by the Grantor in all the following described real estate in the County of Clark, State of Idaho, to-wit:

All of the North Half of Section 30, Township 10 North, Range 30 East lying East of the Highway 28 right-of-way. The Southwest 1/4 of the Southeast ¼, Section 19, Township 10 North, Range 30 East; the Southeast ¼ of the Southwest ¼ of Section 19, Township 10 North, Range 30 East lying East of Highway 28 right-of-way; Lot 4 of Section 19, Township 10 North, Range 30 East lying East of Highway 28 right-of-way. That portion of Lot 3, Section 19, Township 10 North, Range 30 East, East of Highway 28 right-of-way and South of a line more particularly described as follows: Commencing at the West ¼ corner of said Section 19, from which the NW corner of Section 19 bears N00°00'46"E a distance of 2642.40 feet, run thence S45°09'08"E a distance of 346.27 feet to a point on the easterly right-of-way of Highway 28 and the POINT LINE OF BEGINNING; thence S71°46'41"E to the East section line of Lot 3. Including any water rights to Miller Spring located in Section 19, Township 10 North, Range 30 East, Boise Meridian. EXCEPTING therefrom the following: Beginning at the Quarter Section Corner common to Section 29 and 30, Township 10 North, Range 30 East, Boise Meridian, where a stone in placed marked "¼" lies; thence along the center line of Section 30, S89°58'W 40 chains; thence N0°02'W 4.86 chains; thence N57°28'E 20.72 chains; thence N83°53'E 22.65 chains; thence S0°04'E along the Section line common to Sections 29 and 30, 18.38 chains to the point of beginning.

TOGETHER, with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, and rents, issues and profits therefrom.

TO HAVE AND TO HOLD the said premises and the appurtenances unto the Grantee, and to Grantee's heirs and assigns forever.

In construing this Quitclaim Deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has executed the within instrument the day and year first above written.

William T. Simmons, Individually

STATE OF IDAHO )
)ss.
County of Jefferson )

On the this 29 day of January, 1996, before me, the undersigned, a notary public, in and for said State, personally appeared **WILLIAM T. SIMMONS**, individually, known or identified to me 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.

Notary Public for Idaho
Residing at Jefferson County Idaho
My Commission Expires: June 9 2001

(seal)

G:\WPDATA\CAH\8967\SIMS0104.QCD:srs

Microfilmed 46507
11 March 96
At 15:52 p
JOANN S. TAVENNER
Clerk
Fee 6.00
Erica Ruiz
Recorder
Holden, Kidwell, Hahn & Crapo

ATTACHMENT NO. 4

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Department of Water Resources
Eastern Region

# POINT(S) OF DIVERSION FOR SIMMONS WATER RIGHTS APPURTENANT TO 960 ACRES

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | NW | NE | 24 | 10N | 29E | Clark | |
| | | NE | SE | 24 | 10N | 29E | Clark | |
| | | SE | NE | 24 | 10N | 29E | Clark | |
| | | SW | SW | 29 | 10N | 30E | Clark | |
| | | NW | NW | 32 | 10N | 30E | Clark | |
| | | NE | NE | 14 | 10N | 29E | Clark | |
| | | NE | SW | 11 | 10N | 29E | Clark | |

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ATTACHMENT NO. 5

RECEIVED
[illegible] 2 1996
Department of Water Resources
Eastern Region

# LANDS IRRIGATED OR PLACE OF USE FOR SIMMONS WATER RIGHTS

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 10N | 29E | 11 | | | | | | 30 | 35 | 35 | 30 | | | | | 35 | 10 | 40 | 215 |
| | | 12 | | | | | | | | | | | 35 | | | | | | 35 |
| | | 13 | | | | | | 35 | 40 | | | 15 | | | | | | | 90 |
| | | 14 | 35 | | | 20 | | | | | | | | | | | | | 55 |
| | | 24 | | | | | | | | | | | | | | | | 25 | 25 |
| | | 25 | 10 | | | | | | | | | | | | | | | | 10 |
| 10N | 29E | 19 | | | | | | | 30 | | | 10 | 15 | 35 | | | 20 | | 110 |
| | | 29 | | | | | | | | | | | 20 | | | | | | 20 |
| | | 30 | 10 | 20 | 30 | 20 | 20 | 35 | | 35 | | | | | | | | | 170 |
| | | 32 | | 5 | 15 | | 35 | 20 | | 40 | 35 | | | | | 40 | 40 | | 230 |

Total Acres 960

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ATTACHMENT NO. 6A

(See reverse for Privacy Statement)

Form Approved - OMB No. 0560-0125

CRP-1 (07-18-91)

U.S. DEPARTMENT OF AGRICULTURE
Agricultural Stabilization and Conservation Service

# CONSERVATION RESERVE PROGRAM CONTRACT

| | |
|---|---|
| 1. ST & CO CODE & C/D: 16 033 4 | 2. SIGN-UP NUMBER: 04 |
| 3. CONTRACT NUMBER: 745 29 | 4. ACRES FOR CRP: 662.0 |
| 5. FARM NUMBER: 886 2655 | 6. RENTAL RATE PER ACRE: $ 45.00 |

7. COUNTY OFFICE ADDRESS & TELEPHONE NUMBER
Clark County ASCS Office
P.O. Box 206
Dubois, ID 83423
(208) 374-5425

Transferred to Jefferson Cty 1996

8. BID TYPE (Select one)
STANDARD [X] WELLHEAD STANDARD [ ]
EASEMENT [ ] WELLHEAD EASEMENT [ ]

*THIS CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners, operators, or tenants (referred to as "Owner", "Operator", and "Tenant", respectively) on the farm identified above and below. The undersigned person or persons shall hereafter be referred to as "the Participant." The Participant agrees to place the designated acreage into the Conservation Reserve Program ("CRP") for the stipulated contract period from the date the Contract is executed by the CCC. The Participant also agrees to implement on such designated acreage the Conservation Plan developed for such acreage and approved by the CCC and the Participant. Additionally, the Participant agrees to convey to the CCC a conservation easement over those areas subject to this contract which are to be established or maintained as living snow fences, permanent wildlife habitat, windbreaks, shelterbelts, or filterstrips for the useful life of such plantings. The easement shall be of a form and conveyed in accordance with such title and other requirements prescribed by this contract, including a right of access to such land. Payment under this CRP Contract is conditioned upon the granting of these rights to CCC and upon those rights being superior to that of any other person or entity. The Participant and CCC agree to comply with the terms and conditions contained in this Contract including the Appendix to this Contract, entitled Appendix to CRP-1, Conservation Reserve Program Contract (referred to as "Appendix"). By signing below, the Participant acknowledges that a copy of the Appendix for the applicable sign-up period has been provided to such person and that such person has signed the last page of such Appendix. Such person also agrees to allow CCC a period of 30 days from the close of the applicable signup period to accept this Contract and agrees to pay such liquidated damages in an amount specified in the Appendix if the Participant does not allow CCC such 30-day period in which to execute this Contract. The terms and conditions of this contract are contained in this Form CRP-1 and in the CRP-1 Appendix and any addendum thereto. BY SIGNING THIS CONTRACT PRODUCERS ACKNOWLEDGE RECEIPT OF THE FOLLOWING FORMS: CRP-1, CRP-1 Appendix and any addendum thereto, CRP-1 Continuation, CRP-2, and CRP-1B.*

Do you intend to Alley Crop Acres for CRP? If "YES", complete item 9.
YES [ ]
NO [X]

**9. OFFER FOR PERMISSION TO ALLEY CROP**

*Based on the $ _____ per acre offer to participate in CRP under CP19, Alley Cropping, I/we submit an offer of $ _____ per acre reduction, from the amount specified in Item 8, in the annual rental payments for permission to produce agricultural commodities on eligible acres in accordance with the provisions for alley cropping set out in the Appendix.*

*I/we understand that for each year of the CRP contract the annual rental payment will be reduced by the amount agreed to above and that an annual payment reduction of less than 50 percent will not be accepted.*

**10. OWNERS AND OPERATORS**

| | | |
|---|---|---|
| A. OPERATOR NAME AND ADDRESS<br>Birch Creek Ranches<br>2988 Tipperary<br>Idaho Falls, ID 83401 | 100 % | SOCIAL SECURITY NUMBER 82-0427685 Birch Creek Ranches Inc<br>SIGNATURE by [signature] DATE 11/15/91 |
| B. OWNER NAME AND ADDRESS<br>Ted Sorenson<br>550 Linden<br>Idaho Falls, ID 83401 | 0 % | SOCIAL SECURITY NUMBER 519 62 1957<br>SIGNATURE [signature] DATE 11/15/91 |
| C. NAME AND ADDRESS<br>Gayle Sorenson<br>550 Linden<br>Idaho Falls, ID 83401 | % | SOCIAL SECURITY NUMBER 519 52 8222<br>SIGNATURE Gayle A. Sorenson by [signature] DATE 11/15/91 |

**11. ANNUAL PAYMENTS FOR THIS CONTRACT WILL BE PAID AS FOLLOWS:**

| FISCAL YEAR 12 | AMOUNT 13 | FISCAL YEAR 14 | AMOUNT 15 |
|---|---|---|---|
| 1987 | $29,790 | 1995 | $29,790 |
| 1988 | $29,790 | 1996 | $29,790 |
| 1989 | $29,790 | | |
| 1990 | $29,790 | | |
| 1991 | $29,790 | | |
| 1992 | $29,790 | | |
| 1993 | $29,790 | | |
| 1994 | $29,790 | *(Item 13 and Item 15)* TOTAL AMOUNT | $297,900 |

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APR 02 1996
Department of Water Resources
Eastern Region

16. COC USE ONLY - *Payments according to the shares are approved.* SIGNATURE OF COC REPRESENTATIVE [signature] DATE 12-10-91

*This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, creed, age, sex, handicap, or national origin.*

ORIGINAL - COUNTY OFFICE COPY

ATTACHMENT NO. 6B

CRP-1
(02-21-86)

U.S. DEPT. Agricultural Stabilization and Conservation Service
Commodity Credit Corporation

Form Approved - OMB No. 0560-0175

# CONSERVATION RESERVE PROGRAM CONTRACT

| 1. CO. CODE & | 2. CONTRACT NO. |
|---|---|
| 16 033 4 | 18 |
| | 3. FARM NO. 128 |

**NOTE:** *The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a): The authority for requesting the information to be supplied on this form is the Food Security Act of 1985, P.L. 99-198, and the regulations promulgated thereunder (7 CFR Part 704) and the Internal Revenue Code (26 USC 6109). The information requested is necessary for CCC to consider and process the offer to enter into a Conservation Reserve Program Contract, to assist in determining eligibility, and to determine the correct parties to the contract. The information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court magistrate, or administrative tribunal. Furnishing of the Social Security Number (SSN) is mandatory. Furnishing all other information is voluntary; however, failure to furnish the correct, complete information requested will result in rejection of the offer to enter into the contract.*

THIS CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners and operators (referred to as "Owner" and "Operator", respectively) on the farm identified above (referred to as "Farm") for the fields and acres (referred to as "designated acreage") identified in Items 8-17 below and on the CRP-1A Addendum, as applicable. The Owner and Operator agree to place the designated acreage into the Conservation Reserve Program ("CRP") for a period of 10 crop years from the date the Contract is executed by the CCC. The Owner and Operator also agree to implement on such designated acreage the Conservation Plan developed for such designated acreage and approved by the applicable local conservation district based upon the conservation practices identified in Items 10 and 15 below and in Items 4 and 9 on the CRP-1A Addendum or such other conservation practices as are identified in the Conservation Plan and agreed to by the Owner and Operator. The Owner and Operator and CCC agree to comply with the terms and conditions contained in this Contract and contained in the Appendix to this Contract, entitled Appendix to CRP-1, Conservation Reserve Program Contract (referred to as "Appendix"). By signing below, each Owner and Operator acknowledges that a copy of the Appendix has been provided to the Owner and Operator and that the Owner and Operator has signed the last page of such Appendix which will be kept on file in the County Agricultural Stabilization and Conservation Service (ASCS) Office. By signing below, the Owner and Operator also agree to allow CCC a period of 30 days from the close of the applicable signup period to accept this Contract and agree to pay liquidated damages in an amount specified in the Appendix if the Owner and Operator do not allow CCC such 30-day period in which to execute this Contract.

## 4. OWNERS AND OPERATORS

| | SHARE | SSN / SIGNATURE | DATE |
|---|---|---|---|
| A. OPERATOR NAME AND ADDRESS<br>WM. SIMMONS | 100 % | SSN 518 46 9077<br>SIGNATURE Wm T. Simmons | 2-25-87 |
| B. OWNER NAME AND ADDRESS | % | SSN<br>SIGNATURE | DATE |
| C. NAME AND ADDRESS | % | SSN<br>SIGNATURE | DATE |
| D. NAME AND ADDRESS | % | SSN<br>SIGNATURE | DATE |

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Department of Water Resources
Eastern Region

| 5. ACRES FOR CRP | 6. RENTAL RATE PER ACRE | 7. CONTRACT PERIOD FROM | TO |
|---|---|---|---|
| 819.1 (662.0 + 113.8 + 43.3 Bcm. = 819.1) | $45 00 | 1987 | 1997 |

| 8. TRACT NO. | 9. FIELD NO. | 10. PRACTICE NO. | 11. ACRES | 12. RATE OF COST-SHARES | 13. TRACT NO. | 14. FIELD NO. | 15. PRACTICE NO. | 16. ACRES | 17. RATE OF COST-SHARES |
|---|---|---|---|---|---|---|---|---|---|
| 633 | 1 | | 92.2 | | | 6 | | 46.3 | |
| | 2 | | 21.3 | | | 7 | | 22.4 | |
| | 3 | | 21.9 | | | 8 | | 47.2 | |
| | 4 | | 31.1 | | | 9 | | 47.1 | |
| | 5 | | 32.7 | | 633 | 10 | | 46.2 | |

| 18. ANNUAL PAYMENT | 19. CCC USE ONLY - Payments according to the shares are approved. | CCC REPRESENTATIVE'S SIGNATURE | DATE |
|---|---|---|---|
| 36,868.00 | | COPY | |

ORIGINAL - COUNTY OFFICE COPY

Form Approved - OMB No. 0560-0125

CRP-1A Addendum
(02-21-86)

U.S. DEPARTMENT OF AGRICULTURE
Agricultural Stabilization and Conservation Service
Commodity Credit Corporation

# ADDENDUM TO THE CONSERVATION RESERVE PROGRAM (CRP) CONTRACT

**NOTE:** *The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a): The authority for requesting the information to be supplied on this form is the Food Security Act of 1985, P.L. 99-198, and the regulations promulgated thereunder (7 CFR Part 704) and the Internal Revenue Code (26 USC 6109). The information requested is necessary for CCC to consider and process the offer to enter into a Conservation Reserve Program Contract, to assist in determining eligibility, and to determine the correct parties to the contract. The information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court, magistrate, or administrative tribunal. Furnishing of the Social Security Number (SSN) is mandatory. Furnishing all other information is voluntary; however, failure to furnish the correct, complete information requested will result in rejection of the offer to enter into the contract.*

1. Each owner and operator who has signed the CRP-1 Contract shall initial below to acknowledge that the Addendum is hereby incorporated as a part of the CRP-1 Contract.

| INITIALS | INITIALS | INITIALS | INITIALS | INITIALS |
|---|---|---|---|---|
| A. W.T.S. | | | | |
| B. | | | | |
| C. | | | | |
| D. | | | | |

| TRACT NO. | FIELD NO. | PRACTICE NO. | ACRES | RATE OF COST-SHARES | TRACT NO. | FIELD NO. | PRACTICE NO. | ACRES | RATE OF COST-SHARES |
|---|---|---|---|---|---|---|---|---|---|
| 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 6334m 2004 | 11 4m | | 105.7 | | | | | | |
| | 12 4m | | 55.6 | | | | | | |
| | 13 4m | | 14.3 | | | | | | |
| | 14 4m | | 21.1 | | | | | | |
| | 15 4m | | 9.0 | | | | | | |
| | 16 4m | | 23.2 | | | | | | |
| 6324m 2004 | 13 | | 19.9 | | | | | | |
| | 2 | | 1.5 | | | | | | |
| | 3 | | 18.9 | | | | | | |
| | 4 | | 24.6 | | | | | | |
| | 5 | | 5.4 | | | | | | |
| | 6 | | 14.1 | | | | | | |
| | 7 | | 17.1 | | | | | | |
| | 8 | | 17.1 | | | | | | |
| | 9 | | 33.7 | | | | | | |
| | 10 | | 10.2 | | | | | | |
| | 11 | | 10.5 | | | | | | |
| | 12 | | 13.9 | | | | | | |
| 6334m 2004 | 17 | | 35.0 | | | | | | |

KWI
M.L. HAR
P.O. Box 50130
Idaho Falls, ID 83405

ATTACHMENT NO. 7A

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Department of Water Resources
Eastern Region

# CORPORATION QUITCLAIM DEED

THIS INDENTURE, made this 10 day of ~~September~~ October, 1990, between WOODIE LAND & LIVESTOCK, INC., a corporation duly organized and existing under the laws of the State of Idaho and having its principal office in Idaho at Howe in Butte County, hereinafter referred to as "FIRST PARTY", and TED S. SORENSON and GAYLE A. SORENSON d/b/a SORENSON ENGINEERING, and BIRCH POWER COMPANY, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "SECOND PARTY", whose principal office in the State of Idaho and whose mailing address is:

2988 Tipperary Lane
Idaho Falls, Idaho 83404

**WITNESSETH:**

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY's right, title and interest now owned or hereafter acquired in and to the following described water right:

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| A32-00101 | 2.9 cfs | 06/04/1889 | Birch Creek |

TO HAVE AND TO HOLD said water right unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set its hand and corporate seal by its duly authorized officer the day and year first above written.

WOODIE LAND & LIVESTOCK, INC.

By: George Woodie
GEORGE WOODIE, President

(Corporate Seal)

STATE OF IDAHO )
) ss.
County of Butte )

On the 10 day of ~~September~~ October, in the year of 1990, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared GEORGE WOODIE, known or identified to me to be the President of WOODIE LAND & LIVESTOCK, INC., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Notary Public for Idaho
Residing at Howe Idaho
My Commission Expires: 4-6-94

(seal)

#6936.00
1921i/srr

43683

FILED FOR RECORD AT 45 MINUTES PAST 9 O'CLOCK a.m. THIS 1ST. DAY OF February 1991 AND RECORDED AS MICROFILM NO. 43683
RECORDS OF CLARK COUNTY, IDAHO
FEE 9.00 FILED ____ MICRFMD ____ INDXD ____ PLAT ____ RECORDED
BY Diana L Brownley DEPUTY

PLEASE RETURN TO:
[illegible] NEWELL, HA
P.O. Box 50130
Idaho Falls, ID 83405

ATTACHMENT NO. 7B

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

QUITCLAIM DEED

THIS INDENTURE, made this 31st day of January, 1991, between TED S. SORENSON and GAYLE A. SORENSON d/b/a SORENSON ENGINEERING, and BIRCH POWER COMPANY, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to collectively as "FIRST PARTY", and BIRCH CREEK RANCHES, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "SECOND PARTY", whose principal office in the State of Idaho and whose mailing address is:

2988 Tipperary Lane
Idaho Falls, Idaho 83404

**WITNESSETH:**

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY'S right, title and interest now owned or hereafter acquired in and to the following described water right:

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| A32-00101 | 2.9 cfs | 06/04/1889 | Birch Creek |

TO HAVE AND TO HOLD said water right unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set its hand and corporate seal individually and by its duly authorized officers the day and year first above written.

SORENSON ENGINEERING

By: _____
TED S. SORENSON

By: _____
GAYLE A. SORENSON

BIRCH POWER COMPANY, INC.

By: _____
TED S. SORENSON, President

Attest:

_____
Gayle A. Sorenson, Secretary

(Corporate Seal)

STATE OF IDAHO )
) ss.
County of Bonneville )

On the 31st day of January, in the year of 1991, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared TED S. SORENSON and GAYLE A. SORENSON d/b/a SORENSON ENGINEERING, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 1-14-92

(seal)

STATE OF IDAHO )
) ss.
County of Bonneville )

On the 31st day of January, in the year of 1991, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared TED S. SORENSON and GAYLE A. SORENSON, known or identified to me to be the President and Secretary of BIRCH POWER COMPANY, INC., the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 1-14-92

(seal)

#6936.00
5922i/srs

43684

FILED FOR RECORD AT 46 MINUTES PAST 9 O'CLOCK a.M. THIS 1st DAY OF February 1991 AND RECORDED AS MICROFILM NO. 43864
RECORDS OF CLARK COUNTY, IDAHO
FEE 9.00 FILED MICROFILMED INDEXED PLAT
BY DEPUTY

3 - QUITCLAIM DEED

Idaho Falls, ID 83405

ATTACHMENT NO. 7C

RECEIVED

APR 0 2 1996

Department of Water Resources
Eastern Region

# CORRECTION CORPORATION QUITCLAIM DEED

THIS INDENTURE, made this 3rd day of May, 1991, between WOODIE LAND & LIVESTOCK, INC., a corporation duly organized and existing under the laws of the State of Idaho, and having its principal office in Idaho at Howe, in Butte County, hereinafter referred to as "FIRST PARTY", and BIRCH CREEK RANCHES, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "SECOND PARTY", whose principal office is in the State of Idaho and whose mailing address is:

2988 Tipperary Lane
Idaho Falls, Idaho 83404

**WITNESSETH:**

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY's right, title and interest now owned or hereafter acquired in and to the following described water right:

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| A32-00101 | 2.9 cfs | 06/04/1909 | Birch Creek |

THIS DEED is intended to correct a mistake in the priority date of the water right described in that Corporation Quitclaim Deed heretofore recorded as Instrument No. 43683 of the records of Clark County, Idaho, on the 1st day of February, 1991.

TO HAVE AND TO HOLD said water right unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set its hand and corporate seal by its duly authorized officer the day and year first above written.

**WOODIE LAND & LIVESTOCK, INC.**

By: George Woodie
GEORGE WOODIE, President

(Corporate Seal)

STATE OF IDAHO )
) ss.
County of Butte )

On the 2nd day of May, in the year of 1991, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared GEORGE WOODIE, known or identified to me to be the President of WOODIE LAND & LIVESTOCK, INC., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Notary Public for Idaho
Residing at Howe
My Commission Expires: 1-4-96

(seal)

#6936.00
1921i/srr

43808

FILED FOR RECORD AT 07 MINUTES PAST 4 O'CLOCK P M. THIS 8th DAY OF May 1991 AND RECORDED AS MICROFILM NO. 43808
RECORDS OF CLARK COUNTY, IDAHO
RECORDER
FEE 9.00 FILED MICRFMD INDXD PLAT
BY DEPUTY

3 - CORRECTION CORPORATION QUITCLAIM DEED

ATTACHMENT NO. 7D

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

**CORPORATION QUITCLAIM DEED**

THIS INDENTURE, made this 21st day of February, 1996, Between BIRCH CREEK RANCHES, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "FIRST PARTY", and BIRCH CREEK RANCHES, L.L.C., an Idaho Limited Liability Company, hereinafter referred to as "SECOND PARTY", whose principal office in the State of Idaho and whose mailing address is:

5203 South 11th East
Idaho Falls, Idaho 83404

**WITNESSETH:**

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY'S right, title and interest now owned or hereafter acquired in and to the following described water right:

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| A32-00101 | 2.9 cfs | 06/04/1909 | Birch Creek |

TO HAVE AND TO HOLD said water right unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set its hand and corporate seal by its duly authorized officer the day and year first above written.

BIRCH CREEK RANCHES, L.L.C.

By: _____
Ted S. Sorenson, President

(Corporate Seal)

Microfilm No. 46494
29 Day February 1996
At 7:30 O'Clock A M
JO ANN S. TAVENNER
Clerk Co. Recorder
Fee $ 9.00
_____ Deputy
Recorded at Request of
Ted Sorenson

STATE OF IDAHO )
) ss.
County of Bonneville)

On the 27th day of February, in the year of 1996, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared TED S. SORENSON, known or identified to me to be the President of BIRCH CREEK RANCHES, INC., the corporation that executed the above instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Jennifer L. Brumpton
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 7/12/01

(seal)

ATTACHMENT NO. 8A

Law Offices

**HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.**


FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS, P.A.
DALE W. STORER
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
FREDERICK J. HAHN, III

WEST ONE BANK BLDG.
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)


May 24, 1995


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APR 12 1996

Department of Water Resources
Eastern Region


Mr. Harold Jones
IDAHO DEPARTMENT OF
WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718

Dear Harold:

We are enclosing with this letter an application for extension of time to avoid forfeiture of a water right together with our check in the amount of $100 for the filing fee. Please let us know if there are concerns or questions that we might be able to assist with.

This is the water right that Birch Creek Ranches purchased from George Woodie in late 1990. As we understand it the water master records indicate that the last time water was delivered to Mr. Woodie under this right was during the irrigation season of 1990.

Thank you for your kind attention to this matter.

Very truly yours,

Kent W. Foster

Enclosure
G:\WPDATA\KWF\6936\IDWR0524.LTR:sjw

ATTACHMENT NO. 8B

Water Right No. 32-00101

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APR 2 1996
Department of Water Resources
Eastern Region

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APR 2 1996
Department of Water Resources
Eastern Region

# STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES

COPY

## Application for Extension of Time to Avoid Forfeiture of a Water Right

Section 42-222 of the Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

Complete fully the following application and submit it to the Department of Water Resources, Statehouse, Boise, Idaho 83720, with the statutory fee.

1. Name of water right holder Birch Creek Ranches
   Post office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130,
   Idaho Falls, Idaho 83405

2. The right was obtained or is evidenced by:
   a. Decree to Thomas J. Weimar (Name) in Case of AGNES B. RENO et al vs. J. R. RICHARDS et al, Dated 09/06/1922 in Ninth District Court, (Name of Court)
   County of Fremont. Fully describe decree _____

   b. License No. _____ issued by the Department of Water Resources.

   c. Claim No. _____ on file with the Department of Water Resources.

3. Source of water Birch Creek (Name of stream or source) tributary to Sinks

4. Date of priority of right June 4, 1909

5. Amount of water a. 2.9 c.f.s. and/or
   b. _____ acre fee/annum

6. Water is used for Irrigation (Purpose) from 4/1 (Month-Day) to 11/1 (Month-Day)
   _____ from _____ to _____
   _____ from _____ to _____

7. Location of point of diversion is SE ¼ NE ¼ of Section 3
   Township 10N, Range 29E, B.M., in Clark County;
   Additional points of diversion, if any _____

8. Lands irrigated or place of use:

| Twp | Rge | Sec | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 29E | 2 | | | | | | | | | | | 12 | | | | | | 12 |
| | | 3 | | | | 5 | | | | | | | | | 19 | | | 28 | 52 |

Total number of acres irrigated 64

9. Give last date when water was applied to beneficial use irrigation season of 1990
Length of extension of time requested 5 years, or until April 1, 2000

10. Explain fully your reason for requesting an extension of time within which to resume the use of your water right and reasons for non-use Birch Creek Ranches purchased this right after the irrigation season of 1990 and an application to transfer this and several other rights was filed in February 1991. The proposed transfer was protested and the matter bogged down with complications for some time. Eventually the proposed new place of use became unavailable and the matter has been continued until applicant can complete the acquisition of a new proposed place of use.

I hereby assert that no one will be injured by such extension. The information contained in this application is true to the best of my knowledge.

Ted Sorenon

(Signature of Applicant)

Ted Sorenon, Birch Creek Ranches

Subscribed and sworn to before me this 16 day of May, 1995.

David E. Benton

(Notary Public)

My commission expires 11-06-96

---

**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby _____ said application subject to the following conditions or reasons.

_____

_____

_____

_____

_____

Witness my had this _____ day of _____, 19_____.

_____

(Director)

---

For Department Use Only

Received by _____ Date _____ Time _____ Preliminary check by _____ Fee $_____ Receipted by _____
Date _____ Publication prepared by _____ Published in _____
Dates _____ Publication approved by _____ Date _____
Protests filed by : _____
Copies of protests forwarded by _____ Hearing held by _____

Date _____ Recommended for ☐ approval ☐ denial by _____

ATTACHMENT NO. 9A

Microfilm No. 45563
14 Day June 19 95
At 13:10 O'Clock P M
JOANN S. TAVENNER
Clerk Co. Recorder
Fee $ 6.00
Marcia A Baker Deputy
Recorded at Request of
Holden, Kidwell, Hahn & Crapo

# QUITCLAIM DEED

THIS INDENTURE, made this 27th day of September, 1994, between MAC WAGONER and BETTY WAGONER, husband and wife, hereinafter referred to as "FIRST PARTY", and BIRCH CREEK RANCHES, INC., an Idaho Corporation, hereinafter referred to as "SECOND PARTY", whose mailing address is:

2988 Tipperary Lane
Idaho Falls, Idaho 83404

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

**WITNESSETH:**

THAT FOR AND IN CONSIDERATION of ONE DOLLAR ($1.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, FIRST PARTY does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY'S right, title and interest in and to the following described water rights:

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| 32-0102 | 4.0 cfs | 05/10/1889 | Birch Creek |
| 32-0073 | .2 cfs | 05/15/1909 | Birch Creek |
| 32-0085 | .2 cfs | 05/10/1910 | Birch Creek |
| 32-0077 | .2 cfs | 05/15/1910 | Birch Creek |
| 32-0086 | .2 cfs | 05/01/1911 | Birch Creek |
| 32-0078 | .2 cfs | 05/15/1911 | Birch Creek |

| | | | |
|---|---|---|---|
| 32-0087 | .2 cfs | 05/01/1912 | Birch Creek |
| 32-0079 | .8 cfs | 05/15/1913 | Birch Creek |

TO HAVE AND TO HOLD said water rights unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set their hands and seals the day and year first above written.

Mac Wagoner

Mac Wagoner

Betty Wagoner

Betty Wagoner

STATE OF IDAHO )
)ss.
County of ~~Bonneville~~ Clark )

On the 27th day of September, in the year 1994, before me, the undersigned, a notary public in and for said State, personally appeared MAC WAGONER and BETTY WAGONER, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

Betty Kilpatrick

Notary Public for Idaho
Residing at ~~Idaho Falls~~ Rigby, Idaho
My Commission Expires: 2-28-2000

(seal)

G:\WPDATA\KWF\6936\00WAG01.QTD:sjw

ATTACHMENT NO. 9B

46496

**CORPORATION QUITCLAIM DEED**

THIS INDENTURE, made this 27th day of February, 1996, Between BIRCH CREEK RANCHES, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "FIRST PARTY", and BIRCH CREEK RANCHES, L.L.C., an Idaho Limited Liability Company, hereinafter referred to as "SECOND PARTY", whose principal office is in the State of Idaho and whose mailing address is:

5203 South 11th East
Idaho Falls, Idaho 83404

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

**WITNESSETH:**

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY'S right, title and interest now owned or hereafter acquired in and to the following described water rights:

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| 32-0102 | 4.0 cfs | 05/10/1889 | Birch Creek |
| 32-0073 | 0.2 cfs | 05/15/1909 | Birch Creek |
| 32-0085 | 0.2 cfs | 05/10/1910 | Birch Creek |
| 32-0077 | 0.2 cfs | 05/15/1910 | Birch Creek |
| 32-0086 | 0.2 cfs | 05/01/1911 | Birch Creek |

| | | | |
|---|---|---|---|
| 32-0078 | 0.2 cfs | 05/15/1911 | Birch Creek |
| 32-0087 | 0.2 cfs | 05/01/1912 | Birch Creek |
| 32-0079 | 0.8 cfs | 05/15/1913 | Birch Creek |

TO HAVE AND TO HOLD said water right unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set its hand and corporate seal by its duly authorized officer the day and year first above written.

BIRCH CREEK RANCHES, INC.

By: _____
Ted S. Sorenson, President

46496
Microfilm No.
29 Day February 19 96
At 9:32 O'Clock A M
JOANN S. TAVERNIER
Clark Co. Recorder
Fee $ 9.00
Marcia A. Bibb Deputy
Recorded at Request of
Ted Sorenson

STATE OF IDAHO )
) ss.
County of Bonneville)

On the 27th day of February, in the year of 1996, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared TED S. SORENSON, known or identified to me to be the President of BIRCH CREEK RANCHES, INC., the corporation that executed the above instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Jennifer Brumpton
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 2/12/01

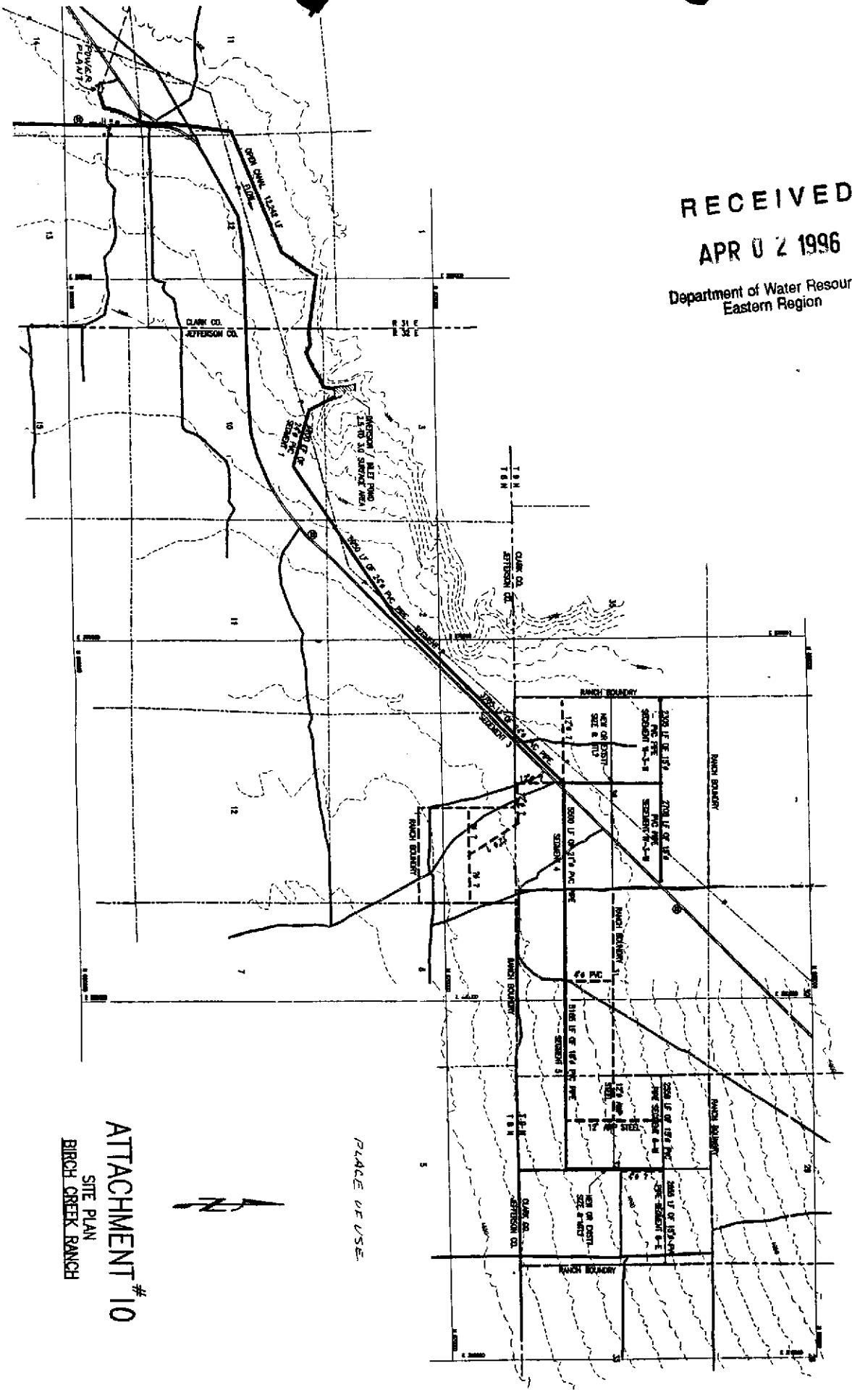
(seal)

ATTACHMENT NO. 10

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APR 0 2 1996

Department of Water Resources
Eastern Region




ATTACHMENT #10

SITE PLAN
BIRCH CREEK RANCH

4649E

# CORPORATION QUITCLAIM DEED

THIS INDENTURE, made this 27th day of February, 1996, Between BIRCH CREEK RANCHES, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "FIRST PARTY", and BIRCH CREEK RANCHES, L.L.C., an Idaho Limited Liability Company, hereinafter referred to as "SECOND PARTY", whose principal office is in the State of Idaho and whose mailing address is:

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Department of Water Resources
Eastern Region

5203 South 11th East
Idaho Falls, Idaho 83404

**WITNESSETH:**

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY'S right, title and interest now owned or hereafter acquired in and to the following described real estate located in Clark County, Idaho:

Township 10 North, Range 30 East of the Boise Meridian, Clark County, Idaho.

Beginning at a point that is S0°04'E along the Section line 660.0 feet and East 402.0 feet from the Northwest Corner of the Said Section 32; thence N0°04'W 200 feet; thence N 78°11'30"E 61.28 feet; thence S0°04'E 212.54 feet; thence West 60.0 feet to the point of beginning.

TOGETHER, with all and singular the water rights, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, and rents, issues and profits thereof;

TO HAVE AND TO HOLD said real estate unto said SECOND PARTY, its assigns or successors in interest forever.

BIRCH CREEK RANCHES, INC.

By: _____
Ted S. Sorenson, President

Microfilm No. 46495
24 Day February 1994
At 9:31 O'Clock A M
JO ANN S. TAVENNER
Clark Co. Recorder
Fee $ 7.00
_____ Deputy
Recorded at Request of
Ted Sorenson

STATE OF IDAHO )
) ss.
County of Bonneville)

On the 27th day of February, in the year of 1996, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared TED S. SORENSON, known or identified to me to be the President of BIRCH CREEK RANCHES, INC., the corporation that executed the above instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Jennifer Brumpton
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 2/12/01

(seal)

46497

COPY

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APR 02 1996
Department of Water Resources
Eastern Region

# GRANT DEED

THIS INDENTURE is made this 27th day of February, 1996, between BIRCH CREEK RANCHES, INC., an Idaho corporation, the "Grantor", and BIRCH CREEK RANCHES, L.L.C., an Idaho Limited Liability Company whose mailing address is 5203 South 11th East, Idaho Falls, ID 83404, the "Grantee".

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) lawful money of the United States of America, and other good and valuable consideration, to the Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, and by these presents does grant and confirm unto the Grantee, and to Grantee's heirs and assigns forever, all of the following described property in the County of Clark, State of Idaho, to-wit:

| Township 9 North, Range 32 East, B.M. | Acres |
|---|---|
| Section 36: Lots 1, 2, NE¼, N½SE¼ | 320.28 |
| Total Acres | 320.28 |

SUBJECT to all existing easements or claims of easements, patent reservations, rights of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, and rents, issues and profits therefrom; and all estate, right, title and interest in and to said property, as well in law as in equity, of the Grantor.

TO HAVE AND TO HOLD, the premises and the appurtenances unto the Grantee, and to Grantee's heirs and assigns forever.

In construing this deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has executed the within instrument the day and year first above written.

BIRCH CREEK RANCHES, INC.

By: _____
Ted S. Sorenson, President

GRANTOR

STATE OF IDAHO )
)ss.
County of Bonneville )

On the 21st day of February, 1996, before me, the undersigned, a notary public in and for said State, personally appeared TED S. SORENSON, known or identified to me to be the president of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation 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.

_____
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 3/12/01

(seal)

G:\WPDATA\GAS\6936\BRCH0208.GD:sjw

Microfilm No. 46497
22 Day February 19 96
At 9:33 o'clock A M
JO ANN S. TAVENNER
Clark Co. Recorder
Fee $ 6.00
_____ Deputy
Requested By
Ted Sorenson

SAS

Microfilm No. 46448
30 Day January 19 96
At 10:32 O'Clock A M
JOANN S. TAVENNER
Clark Co. Recorder
Fee $ 9.00
Marcia N Belcher Deputy
Requested at Request of
Holden, Kidwell, Hahn & Crapo

# CORPORATION GRANT DEED

THIS INDENTURE is made this 25th day of January, 1996, between BIRCH CREEK RANCHES, INC., an Idaho corporation, duly organized and existing under the laws of the State of Idaho, and having its principal office in Idaho at 5203 South 11th East, Idaho Falls in the County of Bonneville, State of Idaho, the Grantor, and BIRCH CREEK RANCHES, L.L.C., an Idaho Limited Liability Company, whose mailing address is 5203 South 11th East, Idaho Falls, ID 83404, the Grantee.

WITNESSETH, that the Grantor having been duly authorized by resolution of its Board of Directors, for and in consideration of the sum of Ten Dollars ($10.00) lawful money of the United States of America, and other good and valuable consideration, to it in hand paid by the Grantee, receipt of which is hereby acknowledged, has granted, and by these presents does grant and confirm unto the Grantee, and to Grantee's heirs and assigns forever, all the following described property in the County of Clark, State of Idaho, to-wit:

Township 10 North, Range 30 East of the Boise Meridian, Clark County, Idaho.

Section 32: Beginning at a point on the West line said Northwest Quarter that is South 792 feet from the Northwest Corner of said Section; thence along said West line; thence S0°04'E 396 feet; thence East 594 feet; thence N1°50'W 561 feet; thence N9°40'W 199.68 feet; thence S78°11'30"W 144.43 feet; thence S0°04'E 200 feet; thence West 270 feet; thence S0°04'E 132 feet; thence West 132 feet to the point of beginning.

EXCEPTING THEREFROM ALL OF THE FOLLOWING DESCRIBED PROPERTY:

Beginning at a point that is S0°04'E along the Section line 660.0 feet and East 402.0 feet from the Northwest Corner of the said Section 32; thence N0°04'W 200 feet; thence N78°11'30" E 61.28 feet; thence S0°04'E 212.54 feet; thence West 60.0 feet to the point of beginning.

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Department of Water Resources
Eastern Region

SUBJECT TO THE FOLLOWING:

1. Highway Right of way and Easement as evidenced by that certain Right of Way Deed given by Auto Bare and Nancy Jane Bare, his wife, parties of the first part to the State of Idaho, party of the second part, and recorded in Book 9 at page 604 of Deeds of Book, records of Clark County, Idaho.

2. Highway Right of Way and Easement and Negative Easement as evidenced by that certain Right of Way Deed given by Dale Bare and Mrs. Clyde Bare, his wife, parties of the first part to the State of Idaho, party of the second part, dated March 25, 1938, and recorded in Book 9 at Page 605 of Deeds of Book, records of Clark County, Idaho.

3. Highway Right of Way and Easement as evidenced by that certain Right of Way Deed given by Dail Bare and Mrs. Dail Bare, parties of the first part to the State of Idaho, party of the second part, dated January 8, 1938, and recorded in Book 9 at Page 607 of Deeds of Book, records of Clark County, Idaho.

4. Final Order of Condemnation, Clark County Case No. 438, against W.H. Kennedy and J.F. Horn, Trustees for the W-D Holding Company, a corporation and Birch-Reno Ranches, Inc., a corporation as Defendant(s), by The County of Clark, a corporate subdivision of the State of Idaho, as Plaintiff(s), dated November 1st, 1939, and recorded in Book 2, Page 297 of Judgments, records of Clark County, Idaho.

5. Easement given by Nancy Jane Bare, party of the first part to Utah Power & Light Company, a corporation, party of the second part, dated August 10, 1965, and recorded as Instrument No. 25189 on October 20th, 1965, records of Clark County, Idaho.

6. Easement given by Cecile Carlson, party of the first part to Utah Power & Light Company, a corporation, party of the second part, dated August 10, 1965, and recorded as Instrument No. 25190 on October 20th, 1965, records of Clark County, Idaho.

SUBJECT to all existing easements or claims of easements, patent reservations, rights of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the property, as well in law as in equity, of the Grantor.

TO HAVE AND TO HOLD the above described premises and the appurtenances unto the Grantee, and to Grantee's heirs and assigns forever.

In construing this deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has set its corporate name by its duly authorized officer.

BIRCH CREEK RANCHES, INC.

By: _____
Ted S. Sorenson, President

STATE OF IDAHO )
)ss.
County of Bonneville )

On the 25th day of January, 1996, before me, the undersigned notary public in and for said state, personally appeared Ted S. Sorenson, known or identified to me to be the president of the corporation that executed the foregoing instrument or the person who executed the foregoing instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

_____
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 2-27-2000

(SEAL)

G:\WPDATA\GAS\6936\BRCH0102.WD:sjw

BLT T-983

44868

COPY

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

# QUITCLAIM DEED

This indenture is made by and between Janice J. Millar, also known as Janice M. Judy, of Bonneville County, Idaho, the party of the first part and Birch Creek Ranches, Inc., an Idaho Corporation, whose mailing address is 5203 South 11th East, Idaho Falls, Idaho 83404, the party of the second part.

WITNESSETH, the party of the first part, for and in consideration of the sum of Ten and no/100 Dollars ($10.00) lawful money of the United States of America and other good and valuable consideration, to the party of the first part in hand paid by the party of the second part, the receipt of which is hereby acknowledged, does by these presents remise, release and forever QUITCLAIM , unto the party of the second part, and unto the party of the second part's heirs and assigns, forever all right, title and interest now owned or hereafter acquired by the party of the first part in all the following described real estate, situated in the County of Clark, State of Idaho, to-wit:

Township 10 North, Range 30 East of the Boise Meridian, Clark County, Idaho.

> Beginning at a point that is S0°04'E along the Section line 660.0 feet and East 402.0 feet from the Northwest Corner of the said Section 32; thence N0°04'W 200 feet; thence N 78°11'30"E 61.28 feet; thence S0°04'E 212.54 feet; thence West 60.0 feet to the point of beginning.

TOGETHER, with all and singular the water rights, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, and rents, issues and profits thereof;

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances, unto the party of the second part, and the party of the second part's heirs and assigns forever.

In construing this deed and where the context so requires, the singular includes the plural.

Dated: Dec. 9, 1993

Janice J. Millar

Janice J. Millar

STATE OF IDAHO )
) ss.
County of Bonneville)

On the 9th day of December, 1993, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared Janice J. Millar, known to me to be the person whose name is subscribed to the within Quitclaim Deed and acknowledged to me that she 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.

H. Larry Spilker

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 1-10-97

(seal)

Micrpfilm No. 44868
14th Day December 19 93
At 9:40 O'Clock a. M
JO ANN S. TAVENNER
Clark Co. Recorder
Fee $ 6.00
Deputy
Recorded at Request of
Bonneville Land Title

T-9825

RECEIVED
APR 2 1996 44867
Department of Water Resources
Eastern Region

# WARRANTY DEED

This indenture is made by and between Janice J. Millar, also known as Janice M. Judy, a married woman dealing with her sole and separate property, hereinafter referred to as "Grantor" and Birch Creek Ranches, Inc., an Idaho Corporation, hereinafter referred to as Grantee, whose current address is 5203 S 11th E, Idaho Falls, Idaho, 83404.

Witnesseth, For and in the consideration of the sum of Ten Dollars ($10.00) lawful money of the United States of America, and other good and valuble consideration, Grantor has granted, bargained, sold, and by these presents, does hereby grant, bargain, sell, convey and confirm unto the said Grantee and Grantee's heirs and assigns forever, all of the following described real estate situated in the State of Idaho, to wit:

Township 10 North, Range 30 East of the Boise Meridian, Clark County, Idaho.

Section 32: Beginning at a point on the West line said Northwest Quarter that is South 792 feet from the Northwest Corner of said Section; thence along said West line; thence S0°04'E 396 feet; thence East 594 feet; thence N1°50'W 561 feet; thence N9°40'W 199.68 feet; thence S78°11'30"W 144.43 feet; thence S0°04'E 200 feet; thence West 270 feet; thence S0°04'E 132 feet; thence West 132 feet to the point of beginning.

EXCEPTING THEREFROM ALL OF THE FOLLOWING DESCRIBED PROPERTY:

Beginning at a point that is S0°04'E along the Section line 660.0 feet and East 402.0 feet from the Northwest Corner of the said Section 32; thence N0°04'W 200 feet; thence N78°11'30" E 61.28 feet; thence S0°04'E 212.54 feet; thence West 60.0 feet to the point of beginning.

SUBJECT TO THE FOLLOWING:

1. Highway Right of Way and Easement as evidenced by that certain Right of Way Deed given by Auto Bare and Nancy Jane Bare, his wife, parties of the first part to the State of Idaho, party of the second part, and recorded in Book 9 at page 604 of Deeds of Book, records of Clark County, Idaho.

2. Highway Right of Way and Easement and Negative Easement as evidenced by that certain Right of Way Deed given by Dale Bare and Mrs. Clyde Bare, his wife, parties of the first part to the State of Idaho, party of the second part, dated March 25, 1938, and recorded in Book 9 at Page 605 of Deeds of Book, records of Clark County, Idaho.

3. Highway Right of Way and Easement as evidenced by that certain Right of Way Deed given by Dail Bare and Mrs. Dail Bare, parties of the first part to the State of Idaho, party of the second part, dated January 8, 1938, and recorded in Book 9 at page 607 of Deeds of Book, records of Clark County, Idaho.

4. Final Order of Condemnation, Clark County Case No.438, against W.H. Kennedy and J.F. Horn, Trustees for the W-D Holding Company, a corporation and Birch-Reno Ranches, Inc., a corporation as Defendant(s), by The County of Clark, a corporate subdivision of the State of Idaho, as Plantiff(s), dated November 1st, 1939, and recorded in Book 2, Page 297 of Judgements, records of Clark County, Idaho.

5. Easement given by Nancy Jane Bare, party of the first part to Utah Power & Light Company, a corporation, party of the second part, dated August 10, 1965, and recorded as Instrument No. 25189 on October 20th, 1965, records of Clark County, Idaho.

6. Easement given by Cecile Carlson, party of the first part to Utah Power & Light Company, a corporation, party to the second part, dated August 10, 1965, and recorded Instrument No. 25190 on October 20th, 1965, records of Clark County, Idaho.

7. Grantee agrees that in the event Grantee develops oil or mineral rights on the premises, Grantee shall pay to Granter one half (1\2) of the net proceeds Grantee receives from the development of the oil or mineral rights.

To have and hold the said premises, together with all and singular the tenements, hereditaments, water rights, easements and appurtenances thereunto belonging or in anywise appertaining; and the reversions, remainders, rents, issues, and profits thereof; and all the Grantor's estate, right, title and interest in and to said premises, in law as well as in equity.

Grantor shall, and by these presents, does hereby warrant and agree to forever defend the Grantee, its successors and assigns, in the quiet and peaceable posession of said premises and from and against all and every person lawfully claiming an interest therin.

In construing this Deed and where the context so requires, the singular includes the plural, and the masculine includes the feminine and neuter.

Dated: Dec. 9, 1992

Janice J. Millar

Janice J. Millar

Grantor

Microfilm No. 44867
14th Day December 1993
At 9:32 O'Clock A. M
JO ANN S. TAYLOR
Clark Co. Recorder
Fee $ 9.00
Deputy
Recorded at Request of
Bonneville Land & Title

44867

Birch Creek Ranches, Inc.

Ted S. Sorenson, President

Grantee

STATE OF IDAHO )
) ss.
County of Bonneville)

On the 9th day of December, 1993, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared Janice J. Millar, known to me to be the person whose name is subscribed to the within Warranty Deed and acknowledged to me that she 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.

H. Lamy Spilker
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 1-10-97

(seal)

STATE OF IDAHO )
) ss.
County of Bonneville)

On the 13th day of December, 1993, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared Ted S. Sorenson, known to me to be the president of Birch Creek Ranches, Inc., an Idaho Corporation, the corporation whose name is subscribed to the within Warranty Deed and acknowledged to me that such corporation 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.

David E. Benton
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 11/4/96

(seal)

Microfilm No. 46470
14 Day February 19 96
At 12:00 O'Clock P M
JO ANN S. TAVENNER
Clerk Co. Recorder
Fee $ 6.00
Deputy
Recorded at Request of

COPY

STATE OF IDAHO DEED

RECEIVED
APR 02 1996
Department of Water Resources
Eastern Region

DEED NO 13037
(Birch Creek Ranches
Land Exchange)

THIS INDENTURE made this 23rd day of January, 19 96 by and between the **STATE OF IDAHO, DEPARTMENT OF LANDS**, acting by and through the State Board of Land Commissioners, party of the first part, hereinafter referred to as "Grantor", and **BIRCH CREEK RANCHES, INC.**, an Idaho Corporation, 5203 South 11th East, Idaho Falls, Idaho 83404, party of the second part, hereinafter referred to as "Grantee".

WITNESSETH, That the Grantor for and in consideration of the exchange of certain lands, in accordance with Section 58-138, Idaho Code, does bargain, sell, convey and confirm in fee unto the said Grantee and their heirs and assigns forever, all of the following described real property situate in **CLARK** County, to-wit:

| Township 9 North, Range 32 East, B.M. | Acres |
|---|---|
| Section 36: Lots 1, 2, NE¼, N½SE¼ | 320.28 |
| **TOTAL ACRES:** | **320.28** |

NOTE As part of the consideration for the exchange, the Grantor will issue a conservation easement to the Grantee for the following described parcel:

Township 9 North, Range 33 East, B.M.

Section 16: Conservation Easement on 300 acres of land lying north and west of State Highway No. 22

TO HAVE AND TO HOLD the above-described premises and parcel of land and granted real property unto BIRCH CREEK RANCHES, INC. and their heirs and assigns forever, subject only to the following:

1. Rights-of-way thereon reserved to the United States for ditches and canals constructed by the authority of the United States (Act of August 30, 1890; 26 Stat. 391; U.S.C. 945) on all lands

2. State of Idaho Easement No. 2357 to State of Idaho, Highway Department for a highway.

3. State of Idaho Easement No. 4023 to Utah Power and Light Company for a 230 KV transmission line.

4. State of Idaho Easement No. 5098 to Clark County Commissioners for a road.

5. State of Idaho Easement No. 5679 to Utah Power and Light Company for a 7.2 KV powerline.

IN WITNESS WHEREOF, I, PHILIP E. BATT, the Governor of the State of Idaho and President of the State Board of Land Commissioners, have hereunto signed my name and caused the Great Seal of the State of Idaho and the Seal of the State Board of Land Commissioners to be hereunto affixed, this 23rd day of January, 19 96 ..

Philip E. Batt
Governor of Idaho and President of the State Board of Land Commissioners

COUNTERSIGNED:

Pete T. Cenarrusa
Secretary of State

Stanley F. Hamilton
Director, Department of Lands

STATE OF IDAHO )
( ss.
County of Ada )

On this 23 day of January, in the year 1996 before me a Notary Public in and for said State, personally appeared **PHILIP E. BATT**, known to me to be the Governor of the State of Idaho and President of the State Board of Land Commissioners, and **PETE T. CENARRUSA**, known to me to be the Secretary of State of the State of Idaho, and **STANLEY F. HAMILTON**, known to me to be the Director of the Department of Lands of the State of Idaho, who executed the said instrument and acknowledged to me that such State of Idaho executed the same.

Gwen Robbins
Notary Public
Residing at: Boise
My Commission Expires: 9/8/2001

COPY

Microfilm No. 46447
30 Day January 19 96
At 10:31 O'Clock A M
JO ANN S. TAVENNER
Clerk Co. Recorder
Fee $ 9.00
Deputy
Recorded at Request of

# CORPORATION GRANT DEED

THIS INDENTURE is made this 25 day of January, 1996, between BIRCH CREEK RANCHES, INC., an Idaho corporation duly organized and existing under the laws of the State of Idaho, and having its principal office in Idaho at 5203 South 11th East, Idaho Falls in the County of Bonneville, State of Idaho, the Grantor, and BIRCH CREEK RANCHES, L.L.C. whose mailing address is 5203 South 11th East, Idaho Falls, Idaho 83404, the Grantee.

WITNESSETH, that the Grantor having been duly authorized by resolution of its Board of Directors, for and in consideration of the sum of Ten Dollars ($10.00) lawful money of the United States of America, and other good and valuable consideration, to it in hand paid by the Grantee, receipt of which is hereby acknowledged, has granted, and by these presents does grant and confirm unto the Grantee, and to Grantee's heirs and assigns forever, all the following described property in the County of Clark, State of Idaho, to-wit:

Township 9 North, Range 33 East of the Boise Meridian, Clark County, Idaho.

Section 31: Lots 3 and 4;
E½ SW¼;
SE¼

Section 32: N½;
SW¼

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APR 0 2 1996
Department of Water Resources
Eastern Region

EXCEPTING THEREFROM ALL OF THE FOLLOWING DESCRIBED PROPERTY:

That certain property conveyed to Clark County for roadway purposes by that certain Corporation Quitclaim Deed recorded as Instrument No. 38386 on May 2, 1984, at 1:05 p.m., records of Clark County, Idaho.

SUBJECT TO THE FOLLOWING:

1. The 1996 and subsequent years general taxes and assessments, all existing patent reservations, easements, right of ways, protective and restrictive covenants, zoning ordinances and applicable building codes, laws and regulations.

2. Real estate mortgage in favor of See Farms, Inc. an Idaho corporation, executed by Birch Creek Ranches, Inc. and recorded on December 12, 1995 in the records of Clark County, Idaho as Instrument No. 46287, which Grantee assumes and agrees to pay.

3. All existing easements or claims of easements, patent reservations, rights of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the property, as well in law as in equity, of the Grantor.

TO HAVE AND TO HOLD the above described premises and the appurtenances unto the Grantee, and to Grantee's heirs and assigns forever.

In construing this deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has set its corporate name by its duly authorized officer.

BIRCH CREEK RANCHES, INC.

By: _____
Ted S. Sorenson, President

STATE OF IDAHO )
)ss.
County of Bonneville )

On the 25th day of January, 1996, before me, the undersigned notary public in and for said state, personally appeared TED S. SORENSON, known or identified to me to be the president of Birch Creek Ranches, Inc., the corporation that executed the foregoing instrument or the person who executed the foregoing instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 4-27-2000

(SEAL)

G:\WPDATA\GAS\6936\BRCH0102.2WD sjw

46286 BLT TC-11581

# CORPORATION WARRANTY DEED

COPY

SEE FARMS, INC.
*a Corporation under the laws of the State of* Idaho *having been duly authorized by its Board of Directors, as* ***GRANTOR****, for good and valuable considerations, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto*
BIRCH CREEK RANCHES, INC., an Idaho Corporation

5203 So. 11th E Idaho Falls, Id. *as* ***GRANTEE****, and Grantee's successors and assigns, all of the following described real estate situated in the State of Idaho, to-wit:*

Township 9 North, Range 33 East of the Boise Meridian, Clark County, Idaho.

Section 31: Lots 3 and 4;
E1/2 SW1/4;
SE1/4.

Section 32: N1/2;
SW1/4.

EXCEPTING THEREFROM ALL OF THE FOLLOWING DESCRIBED PROPERTY:

a. That certain property conveyed to Clark County for roadway purposes by that certain Corporation Quitclaim Deed recorded as Instrument No. 38386 on May 2, 1984, at 1:05 p.m., records of Clark County, Idaho.

SUBJECT TO the 1996 and subsequent years general taxes and assessments, all existing patent reservations, easements, right of ways, protective and restrictive covenants, zoning ordinances and applicable building codes, laws and regulations.

RECEIVED
APR 12 1996
Department of Water Resources
Eastern Region

*TOGETHER WITH any and all improvements, water and ditch rights, easements, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversion, remainder, rents, issues, and profits thereof.*

*Grantor, for itself, and its successors and assigns, does hereby warrant and agree to forever defend the Grantee, and Grantee's successors and assigns, in the quiet and peaceful possession of said premises against the lawful claims of any and all persons.*

*In construing this Deed and where the context so requires, the singular includes the plural, and the masculine, the feminine and neuter.*

*IN WITNESS WHEREOF, the Grantor hereunto has set its hand and seal hereto on* December 8, 1995 .

SEE FARMS, INC.
*Corporation Name*

By: Guy A. Erickson

*STATE OF IDAHO* )
) ss
*COUNTY OF* Bonneville )

*On* December 8, 1995 *before me, the undersigned, a Notary Public in and for said State, personally appeared*

Guy A. Erickson

*known to me to be the* President *of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.*

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

*Notary Public for the State of Idaho*
*Commission Expiration Date:* 1/28/97

NOTARY PUBLIC
LENORE J. KATRI
STATE OF IDAHO

Residing at Idaho Falls, Idaho
My Commission Expires Jan. 28, 1997

*RECORDING DATA*

Microfilm No. 46286
12 Day December 1995
At 9:45 O'Clock A M
JOANN S. TAVENNER
Clark Co. Recorder
Fee $ 3.00
Marcia D. Belcher Deputy
Recorded at Request of
Bonneville Land & Title

**Bonneville Land & Title Co.**
*497 N. Capital Ave * P.O. Box 51690 * Idaho Falls, ID 83405-1690 * (208) 524-6600*

**Birch Creek Ranches, Inc.**

5203 South 11th East
Idaho Falls, Idaho 83404
*Tel 208-522-8069*
*fax 208-522-8223*

COPY

12/22/95 1:06 PM

Mr. Chuck Horsbrough
Medicine Lodge Resource Area
Mr. LeRoy Cook
Big Butte Resource Area
Bureau of Land Management
U.S. Department of the Interior
1405 Hollipark Drive
Idaho Falls, ID 83401-2100

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

RE: APPLICATION FOR A RIGHT-OF-WAY

Gentlemen:

Please accept this application for a right-of-way to build a ditch, pipeline, and intake pond to route irrigation waters from the discharge of the Birch Creek Hydroelectric plant to land I have purchased in Clark County. Please note that this application represents no new diversion of water for Birch Creek, but actually puts water into Birch Creek from my ranch adjacent to Lone Pine to travel the length of Birch Creek through the power plant and, then, through this proposed system to irrigate lands owned by Birch Creek Ranches, Inc.

In that I must act timely in order to maintain my water rights, your prompt review and processing of this application is sincerely appreciated. I would be glad to meet with you for a field examination or provide additional information, as needed.

Very truly yours,

Ted S. Sorenson
Birch Creek Ranches, Inc.

TSS:mjm

enclosure

msoffice\winword\letters\dec22.bc1

STANDARD FORM 299 (3/94)
Prescribed by DOI/USDA/DOT
P.L. 96-487 and Federal
Register Notice 6-3-81

# APPLICATION FOR TRANSPORTATION AND UTILITY SYSTEMS AND FACILITIES ON FEDERAL LANDS

FORM APPROVED
OMB NO. 1004-0060
Expires: June 30, 1995

FOR AGENCY USE ONLY

Application Number

Date filed

NOTE: Before completing and filing the application, the applicant should completely review this package and schedule a preapplication meeting with representatives of the agency responsible for processing the application. Each agency may have specific and unique requirements to be met in preparing and processing the application. Many times, with the help of the agency representative, the application can be completed at the preapplication meeting.

1. Name and address of applicant *(include zip code)*

Birch Creek Ranches, Inc.
5203 South 11th East
Idaho Falls, ID 83404

2. Name, title, and address of authorized agent if different from item 1 *(include zip code)*

Ted S. Sorenson, P.E.
5203 South 11th East
Idaho Falls, ID 83404

3. TELEPHONE *(area code)*

Applicant
(208) 522-8069

Authorized Agent
(208) 522-8069

4. As applicant are you? *(check one)*

a. ☐ Individual
b. ☒ Corporation*
c. ☐ Partnership/Association*
d. ☐ State Government/State Agency
e. ☐ Local Government
f. ☐ Federal Agency

* *If checked, complete supplemental page*

5. Specify what application is for: *(check one)*

a. ☒ New authorization
b. ☐ Renewing existing authorization No.
c. ☐ Amend existing authorization No.
d. ☐ Assign existing authorization No.
e. ☐ Existing use for which no authorization has been received*
f. ☐ Other*

* *If checked, provide details under Item 7*

6. If an individual, or partnership are you a citizen(s) of the United States? ☐ Yes ☐ No N/A

7. Project description *(describe in detail)*: (a) Type of system or facility, *(e.g., canal, pipeline, road)*; (b) related structures and facilities; (c) physical specifications *(length, width, grading, etc.)*; (d) term of years needed; (e) time of year of use or operation; (f) Volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction *(Attach additional sheets, if additional space is needed.)*

a) The facility would route irrigation waters across BLM land to private property. b) The facilities would consist of an open ditch, small intake pond, and buried pipeline located as shown on Attachment I. c) The facility would consist of 10,800 lineal feet of open ditch conforming to dimensions shown on Attachment II. The intake pond would be approximately 2.5 to 3.0 surface acres and have a capacity of approximately 30 acre-feet. Details of the inta pond are shown on Attachment III. The buried pipeline would be 12,150 lineal feet of either 24" or 30" diameter PVC. Details of the pipeline are shown on Attachment IV. d) The term c years needed is perpetual. e) The time of year of use would be year-round. f) The product is irrigation water. The volume would be 23.7 cubic feet per second maximum. The average flow would be 15 to 19 cfs. g) Duration of construction would be two months. The construct would begin early spring, i.e. March 1st, if possible, in order to have the facility ready f 1996 crop year which begins May 1st. h) Temporary work areas along the canal and pipeline route and adjacent to inlet pond would be needed as shown on attachments I, II, III, & IV. The areas would be used to stage equipment & materials for construction.

8. Attach a map covering area and show location of project proposal See Attachment I

9. State or Loc government approval: ☐ Attached ☐ Applied for ☒ Not required

10. Nonreturnable application fee: ☐ Attached ☐ Not required

11. Does project cross international boundary or affect international waterways? ☐ Yes ☒ No *(If "yes," indicate on map)*

12. Give statement of your technical and financial capability to construct, operate, maintain, and terminate system for which authorization is being requested.

Birch Creek RAnches, Inc. owns 1120 acres of ground (specifically: 1) $E\frac{1}{2}$ Sec 36, T9N R32E BM and 2) $S\frac{1}{2}$ Sec 31, $SW\frac{1}{4}$ Sec 32, $N\frac{1}{2}$ Sec 32 T9N R33E BM. Birch Creek Ranches, Inc. has the necessary financial resources to construct, maintain and operate the ditch/pipeline to irrigate the above ground.

Continued on reverse)

This form is authorized for local reproduction.

## SUPPLEMENTAL

| NOTE: The responsible agency(ies) will provide additional instructions | CHECK APPROPRIATE BLOCK | |
|---|---|---|
| I - PRIVATE CORPORATIONS | ATTACHED | FILED* |
| a. Articles of Incorporation Exhibit A | ☒ | ☐ |
| b. Corporation Bylaws Exhibit B | ☒ | ☐ |
| c. A certification from the State showing the corporation is in good standing and is entitled to operate within the State. Exhibit C | ☒ | ☐ |
| d. Copy of resolution authorizing filing Exhibit D | ☒ | ☐ |
| e. The name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote and the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate. Exhibit E | ☒ | ☐ |
| f. If application is for an oil or gas pipeline, describe any related right-of-way or temporary use permit applications, and identify previous applications. N/A | ☐ | ☐ |
| g. If application is for an oil and gas pipeline, identify all Federal lands by agency impacted by proposal. N/A | ☐ | ☐ |
| II - PUBLIC CORPORATIONS N/A | | |
| a. Copy of law forming corporation | ☐ | ☐ |
| b. Proof of organization | ☐ | ☐ |
| c. Copy of Bylaws | ☐ | ☐ |
| d. Copy of resolution authorizing filing | ☐ | ☐ |
| e. If application is for an oil or gas pipeline, provide information required by Item "I-f" and "I-g" above. | ☐ | ☐ |
| III - PARTNERSHIP OR OTHER UNINCORPORATED ENTITY | | |
| a. Articles of association, if any | ☐ | ☐ |
| b. If one partner is authorized to sign, resolution authorizing action is | ☐ | ☐ |
| c. Name and address of each participant, partner, association, or other | ☐ | ☐ |
| d. If application is for an oil or gas pipeline, provide information required by Item "I-f" and "I-g" above. | ☐ | ☐ |

If the required information is already filed with the agency processing this application and is current, check block entitled "Filed." Provide the file identification information *(e.g., number, date, code, name)*. If not on file or current, attach the requested information.

### NOTICE

The Privacy Act of 1974 provides that you be furnished the following information in connection with information required by this application for an authorization.

AUTHORITY: 16 U.S.C. 310; 5 U.S.C. 301.

PRINCIPAL PURPOSE: The information is to be used to process the application.

ROUTINE USES: (1) The processing of the applicant's request for an authorization. (2) Documentation for public information. (3) Transfer to appropriate Federal agencies when concurrence is required prior to granting a right on public lands or resources. (4)(5) Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is voluntary. If all the information is not provided, the application may be rejected.

### DATA COLLECTION STATEMENT

The Federal agencies collect this information from applicants requesting right-of-way, permit, license, lease, or certification for the use of Federal lands.

The Federal agencies use this information to evaluate the applicant's proposal.

The public is obligated to submit this form if they wish to obtain permission to use Federal lands.

A reproducible copy of this form may be obtained from the Bureau of Land Management, Division of Lands, 1620 L Street, Rm. 204, Washington, D.C. 20036.

APPLICATION FOR TRANSPORTATION AND
UTILITY SYSTEMS AND FACILITIES
ON FEDERAL LANDS

Attachment

17. a) Minor impact on air quality associated with dust during construction. No long term impact. b) No significant impact on visual. c) No impact on surface and ground water quality because the ditch would be lined with PVC. d) Project would result in more water staying in Birch Creek for a distance of about 6 miles. e) No impact on existing noise levels. f) Ditch and pipeline would be reseeded as directed by BLM.

Diversion/Inlet Pond
2.5 to 3.0 Surface Access

12,150 L.F. of 24- thru 30-inch
Buried PVC Pipe

Open Canal
10,800 L.F.

Flow

Rattlesnake Point

T9N
T8N
R31E
R32E
R33E

CLARK CO
JEFFERSON CO

Borrow Pit

BM 4949
BM 4936
BM 4971

Well

Reno Ranch

Substation

TESTING

**Attachment I**
**Birch Creek Ranches**
**Ditch, Inlet Pond & Buried Pipeline Irrigation System**

Birch Creek Ranches BLM Right-of-Way

T. S. Sorenson P.E. 1-8-95

Attachment II

Open Ditch Details




Minimum Buried 1.0

PVC Liner Buried 5120.00'

Bench Ditch Elev 5118.92'

Ditch Elev 1.0

Ditch Seed

Ditch Grade 20 mil

Ditch Slope 0.00 1 - 1.0

Ditch Velocity

Adequate Ditch

Vari-

Channel Depth 4.0'

Water Surface

3

1

2

1

1

Scale 1" = 5'

38 feet

60 feet

Permanent Right-of-Way

Temporary Construction

Attachment II

Birch Creek Ranches BLM Right-of-way

T. S. Sorenson P.E. 1-9-95

Inlet Pond Details

Attachment III







Pond will use Dike across natural ground. Dike length approx 450 feet

Pond approx 20 acres feet at water surface 3.0 to 4.0 acres Depth up to 10 feet

Surface area approx 5.0 acres 5.0 acres

Permanent Pool - 0.1 acre feet 7.0 acres

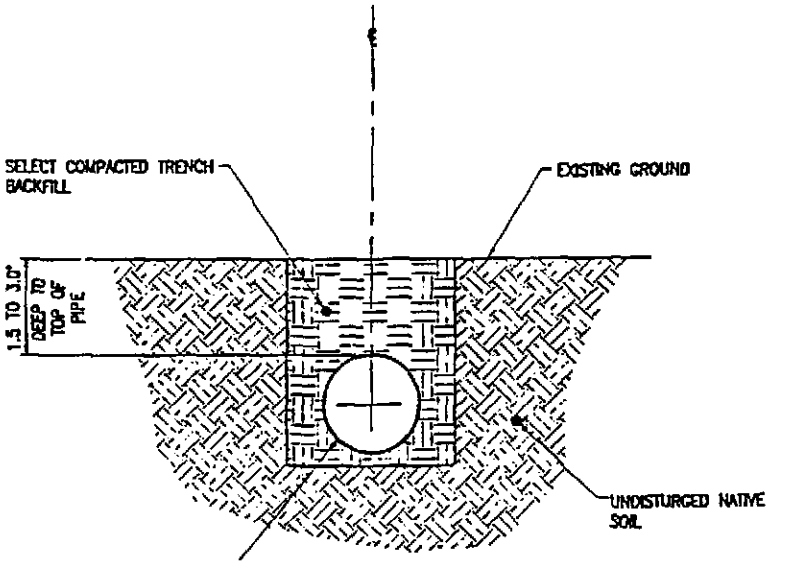
Temporary Pool - 0.1 acre feet

Scale 1" = 10 feet

Attachment III

Permanent Right-of-way 18 feet

Temporary 40 feet




24 or 30" PVC

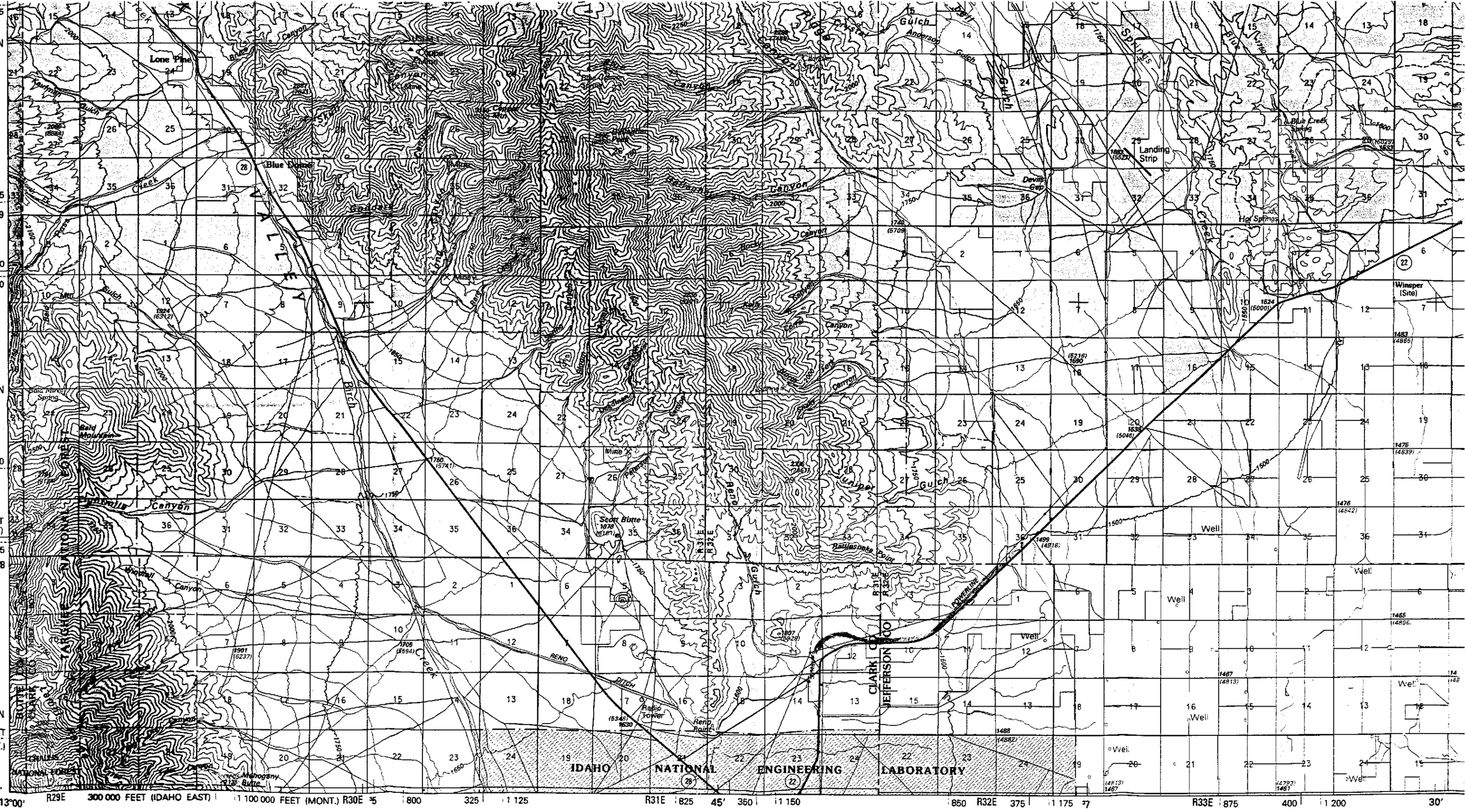
NEW PIPELINE SECTION

SCALE 1" = 2'-0"

REGISTERED PROFESSIONAL ENGINEER
3458
1-9-95
STATE OF IDAHO
TED S SORENSON

Attachment IV

BLM Right-of-way




INTERIOR—GEOLOGICAL SURVEY, RESTON, VIRGINIA—1994

In general, BLM Public Lands are open to a number of recreational activities in addtion to those that may be highlighted on the map. These activities include camping, fishing, hiking and hunting. Certain restrictions may apply. Contact the appropriate BLM State, District or Resource Area Office for more information.

KILOMETERS 1 0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20

MILES 1 0 1 2 3 4 5 6 7 8 9 10 11 12 13

POWER CHANNEL AND PIPELINE TO POWER PLANT

PROPOSED NEW GRAVITY FLOW LINE

PROPOSED PLACE OF USE UNDER APP. FOR TRANSFER #3553

PROPOSED PLACE OF USE UNDER APP. FOR PERMIT

SCALE 1:100

1 CENTIMETER ON THE MAP REPRESENTS

CONTOUR INTERVAL

SUPPLEMENTARY CONTOUR IN

(CONVERSION OF SPOT ELEVATIONS TO F

BUREAU OF LAND

LAND STATUS

Public Lands (Administered by Bureau of Land Management) .....

Oregon & California Lands (O&C Lands) NONE

Indian Lands or Reservations ..... NONE

Military Reservations and Withdrawals NONE

St

NOTES:
RESERVOIR POND DATA
POND FLOOR = 208' x 208'
EMBANKMENT SLOPE, POND SIDE = 2.5h : 1v
EMBANKMENT SLOPE, NON-POND SIDE = 2h : 1v
EMBANKMENT MIN TOP WIDTH = 8'
NORMAL WATER DEPTH = 10'
MAXIMUM EMBANKMENT HEIGHT @ CL DIKE = 12'
FREEBOARD TO TOP OF EMBANKMENT = 2'
STORAGE VOLUME = 14.35 ACRE FEET, 625,000 FT³, 4.68 MILLION GALLONS
POND LINER = 100% WITH 20 MIL PVC
PERMANENT RIGHT-OF-WAY = 360' x 360' = 2.98 ACRES
TEMPORARY RIGHT-OF-WAY = 400' x 400' = 3.7 ACRES

RESERVOIR POND SEE NOTE
POINT 42 END OF CANAL
FLOW
POINT 7 CANAL WEIR
1343 LF OF DIST OPEN CANAL
27"ø PVC 16,734 LF
CLARK CO.
JEFFERSON CO.
T 9 N
T 8 N
R 31 E
R 32 E
R 33 E
R 34 E
RANCH BOUNDRY
2305 LF OF 12"ø PVC PIPE SEGMENT W-3-W
2708 LF OF 15"ø PVC PIPE SEGMENT W-2-W
5500 LF OF 24"ø PVC PIPE SEGMENT 4
1868 LF OF 24"ø PVC PIPE SEGMENT 5
2556 LF OF 15"ø PVC PIPE SEGMENT B-W
2655 LF OF 18" PVC PIPE SEGMENT B-E
2646 LF OF 15"ø PVC
2640 LF OF 12"ø PVC
2690 LF OF 15"ø PVC
6402 LF OF 15"ø PVC
2710 LF OF 12"ø EXIST 10" STL PIPE
1258 LF OF 12"ø PVC
12"ø STL
2"ø AWWA STEEL
16"ø PVC
8405 LF OF 15"ø PVC

ATTACHMENT 1
SITE PLAN
BIRCH CREEK RANCH
2000 0' 2000 4000 6000
SCALE IN FEET

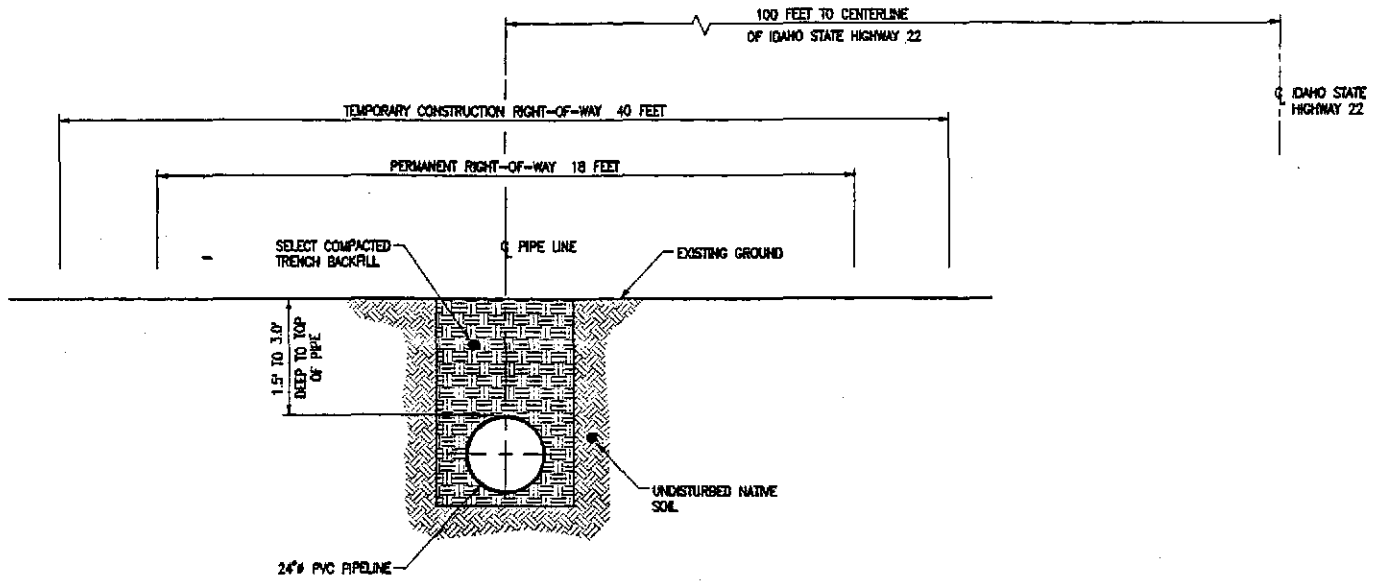
| REVISIONS | | | | |
|---|---|---|---|---|
| REV LTR | | | | |
| DATE | JAN. 1997 | | | |
| DRAWN | SB | SB | TSS | TSS |
| CHECKED | SB | | | |

BIRCH CREEK RANCHES
TED SORENSON

ATTACHMENT 1
SITE PLAN

SORENSON ENGINEERING, P.A.
CONSULTING ENGINEERS
IDAHO FALLS, IDAHO VANCOUVER, WASHINGTON

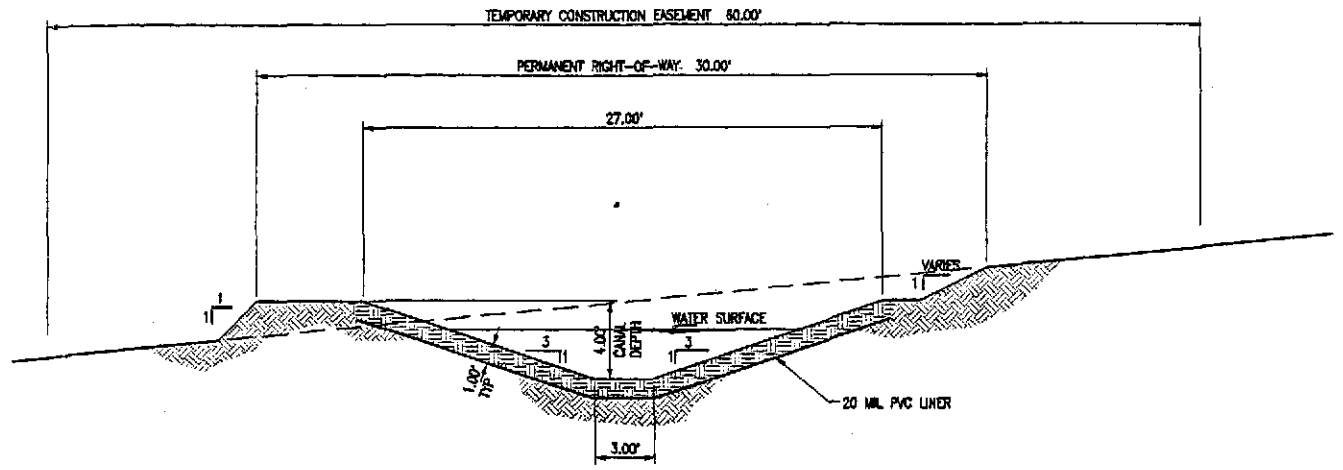
SCALE NOTED
DRAWING NO. SITE 1997
SHEET NO. 1




## FIGURE 3

TYPICAL NEW PIPELINE
SECTION IN BLM RIGHT-OF-WAY

3' 0' 3' 6' 9'
SCALE IN FEET

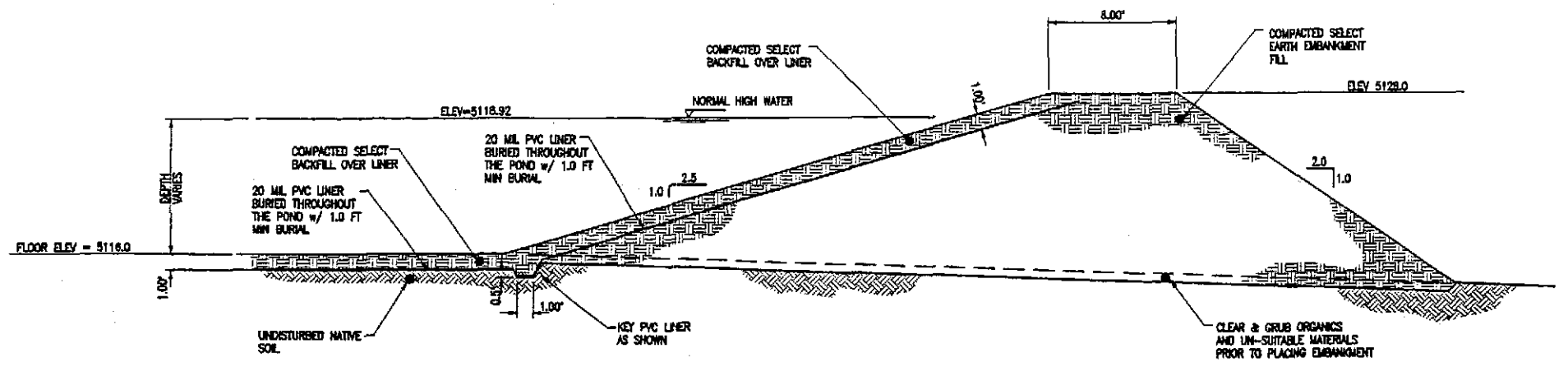



## FIGURE 1

OPEN CANAL DETAIL

5 0' 5 10 15
SCALE IN FEET

NOTES
DITCH TO HAVE 20 MIL PVC LINER BURIED 1.0 FEET MINIMUM
DITCH SLOPE = 0.0001, BEGIN DITCH ELEV = 5127.0 (WATER SURFACE)
END OF DITCH ELEV = 5126.0 (WATER SURFACE)
AVERAGE DITCH VELOCITY = 1.0 ft/sec




## FIGURE 2

INLET POND EMBANKMENT DETAIL

5 0' 5 10 15
SCALE IN FEET

NOTES:
RESERVOIR POND DATA
POND FLOOR = 208' x 208'
EMBANKMENT SLOPE, POND SIDE = 2.5h : 1v
EMBANKMENT SLOPE, NON-POND SIDE = 2h : 1v
EMBANKMENT MIN TOP WIDTH = 8'
NORMAL WATER DEPTH = 10'
MAXIMUM EMBANKMENT HEIGHT @ CL DIKE = 12'
FREEBOARD TO TOP OF EMBANKMENT = 2'
STORAGE VOLUME = 14.35 ACRE FEET, 625,000 FT³,
4.68 MILLION GALLONS
POND LINER = 100% WITH 20 MIL PVC
PERMANENT RIGHT-OF-WAY = 360' x 360' = 2.98 ACRES
TEMPORARY RIGHT-OF-WAY = 400' x 400' = 3.7 ACRES

REVISIONS

| REV LTR | DESCRIPTION | DATE | DRAWN | CHECKED | APPROVED | SURVEYED |
|---|---|---|---|---|---|---|
| A | REVISED FIGURE 1, 2 & 3 TO INCLUDE THE POND AND LINER DETAILS. ADD 2 TO THE PVC ROW LINER CODES. SPB 2-10-14 | JAN 1996 | SPB | SPB | TSS | TSS |

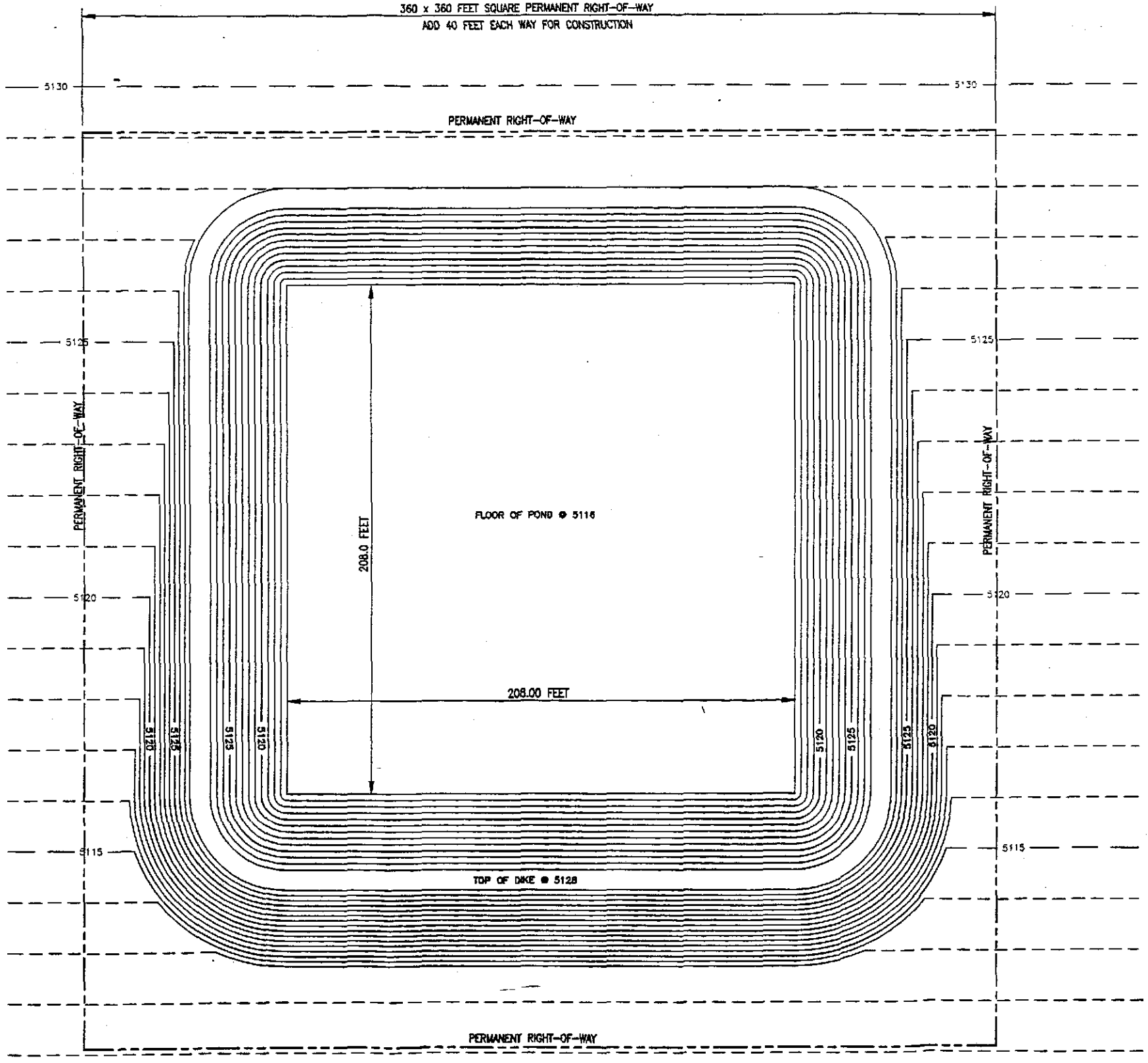
BIRCH CREEK RANCHES
TED SORENSON

ATTACHMENT 2
FIGURE 1, 2, & 3

SORENSON ENGINEERING, P.A.
CONSULTING ENGINEERS
IDAHO FALLS, IDAHO VANCOUVER, WASHINGTON

SCALE: NOTED
Drawing No. ATTACH 2
SHEET NO. 2

ACAD PLOT SCALE 1:10




INLET POND PLAN

## NOTES:

RESERVOIR POND DATA
POND FLOOR = 208' x 208'
EMBANKMENT SLOPE, POND SIDE = 2.5h : 1v
EMBANKMENT SLOPE, NON-POND SIDE = 2h : 1v
EMBANKMENT MIN TOP WIDTH = 8'
NORMAL WATER DEPTH = 10'
MAXIMUM EMBANKMENT HEIGHT @ CL DIKE = 12'
FREEBOARD TO TOP OF EMBANKMENT = 2'
STORAGE VOLUME = 14.35 ACRE FEET, 625,000 FT$^3$,
4.68 MILLION GALLONS
POND LINER = 100% WITH 20 MIL PVC
PERMANENT RIGHT-OF-WAY = 360' x 360' = 2.98 ACRES
TEMPORARY RIGHT-OF-WAY = 400' x 400' = 3.7 ACRES

Site Volume Table: Unadjusted

| Site | Stratum | Surf1 | Surf2 | Cut yards | Fill yards | Net yards | Method |
|---|---|---|---|---|---|---|---|
| birch | st-2 | s-2 | s-3 | 10318 | 8350 | 1968 (C) | Tin Sub |

50 0' 50 100 150
SCALE IN FEET

| REV LTR | REVISIONS |
|---|---|
| A | ADDED INLET BASIN PER 8-15-96 |

DATE MAR 1996
DRAWN SPB
CHECKED SPB
APPROVED TSS
ENGINEER TSS

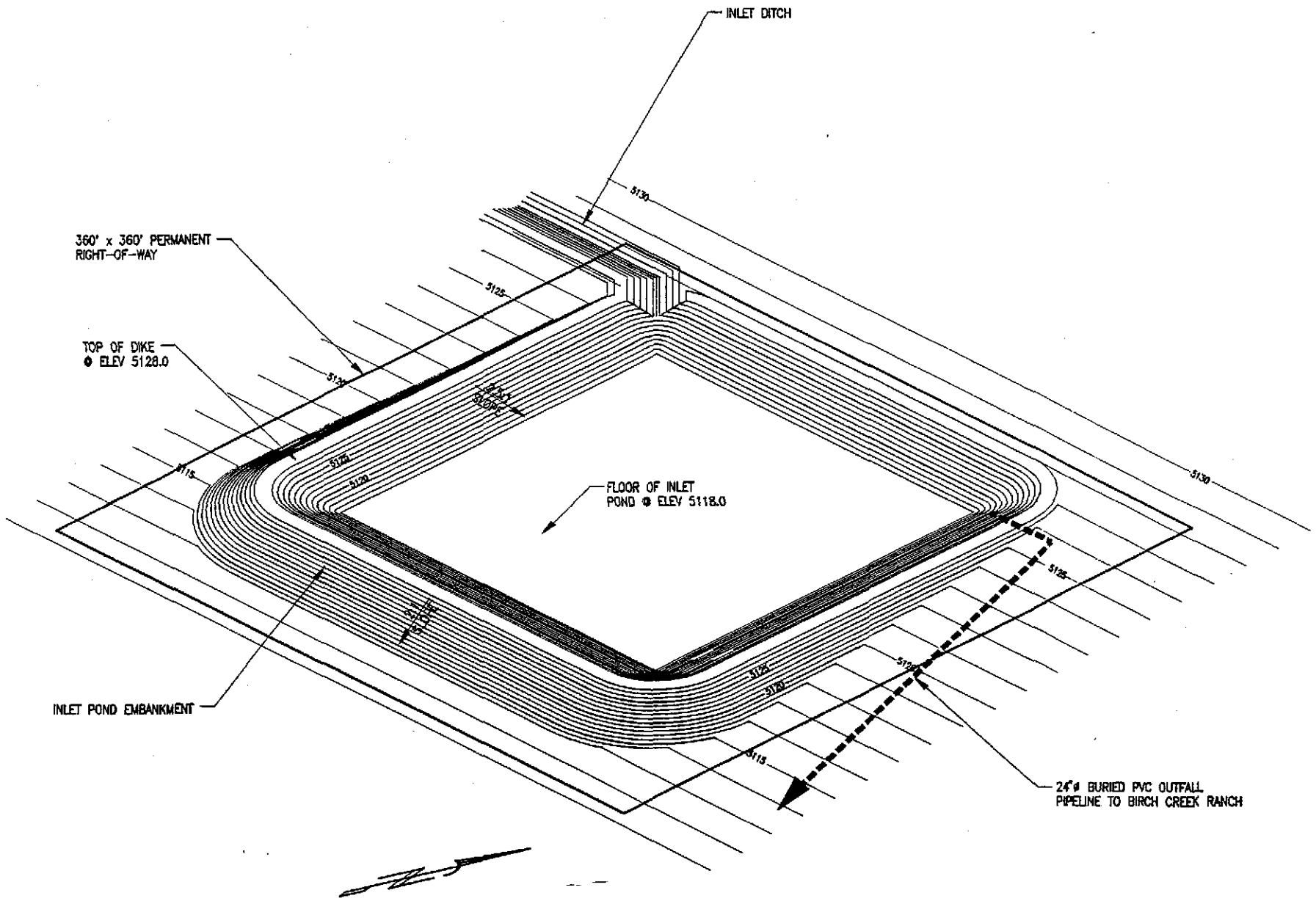
BIRCH CREEK RANCHES
TED SORENSON

ATTACHMENT 3
BIRCH CREEK RANCH INLET POND PLAN

SORENSON ENGINEERING, P.A.
CONSULTING ENGINEERS
IDAHO FALLS, IDAHO VANCOUVER, WASHINGTON

SCALE NOTED
DRAWING NO. ATTACH_3
SHEET NO. 3

ACAD PLOT SCALE 1:50




BIRCH CREEK INLET POND
ISOMETRIC VIEW

NOT TO SCALE

NOTES:

RESERVOIR POND DATA
POND FLOOR = 208' x 208'
EMBANKMENT SLOPE, POND SIDE = 2.5h : 1v
EMBANKMENT SLOPE, NON-POND SIDE = 2h : 1v
EMBANKMENT MIN TOP WIDTH = 8'
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STORAGE VOLUME = 14.35 ACRE FEET, 625,000 FT$^3$,
4.68 MILLION GALLONS
POND LINER = 100% WITH 20 MIL PVC
PERMANENT RIGHT-OF-WAY = 360' x 360' = 2.98 ACRES
TEMPORARY RIGHT-OF-WAY = 400' x 400' = 3.7 ACRES

| REVISIONS | | | |
|---|---|---|---|
| REV LTR | | | |
| DATE | MAR 1996 | | |
| DRAWN | SB | | |
| CHECKED | SB | | |
| APPROVED | TSS | | |
| SUBMITTED | TSS | | |

BIRCH CREEK RANCHES
TED SORENSON

BIRCH CREEK RANCH INLET POND
ATTACHMENT 4
ISOMETRIC VIEW

SORENSON ENGINEERING, P.A.
CONSULTING ENGINEERS
IDAHO FALLS, IDAHO VANCOUVER, WASHINGTON

SCALE: NOTED

DRAWING NO.: ATTACH 4

SHEET NO.: 4

ACAD PLOT SCALE 1:50

Form 222a
6/78

lv. 5000
(Amended)

# STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES
# TRANSFER ANALYSIS SHEET

**INITIAL REVIEW BY:** HGT

1. Right number 32-00093 dc Applicant Birch Creek Ranches
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☐ Other _____
4. Check:
   a. ☑ Source ☑ Priority ☑ Amount ☑ Purpose ☐ Period of use
   b. ☑ Description of original point of diversion.
   c. ☑ Description of original place of use.
5. Amount of land &/or water transferred:
   a. ☑ All of right. - All others
   b. ☑ Part of right *(NOTE! Part B should be filled in only if part of the right is owned by the applicant).* 33-00090A
   c. ☑ Check description of point(s) of diversion.
   d. ☑ Check description of place of use.
   e. ☑ Check map (shows p.d. and p.u. after transfer).
   f. ☑ Check for correct signature, notarization, and fee.
   g. ☑ Check proof of ownership of right &/or land from which water is transferred.
   h. ☑ Check for expansion in use of right. Comments _____
   i. ☑ Check for existing water rights from same source, on land water is being transferred to.
      Right number(s) _____
   j. ☑ Is use within a Watermaster District? ☒ Yes ☐ No
      If yes, what district? WD 32 - Don Shinton

**FINAL PROCESSING REVIEW BY:** _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No NOP 1-20-96
3. Protest received? ☒ Yes ☐ No

**RECOMMENDED ACTION**

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____
4. By _____ Date _____ AD SO 12-19-96 Tr SO 12-19-96

dec 19

** All uses within Watermaster Districts require special conditions.*

# 1997

GEORGE C. PETERSEN, JR.
REED L. MOSS
WM. CHARLES CARR
SCOTT P. ESKELSON
STEPHEN D. HALL

PETERSEN, MOSS, OLSEN, CARR,
ESKELSON & HALL
Attorneys at Law
485 "E" Street
Idaho Falls, Idaho 83402
(208) 523-4650

DENNIS M. OLSEN
(1930-1985)

FAX NO.
(208) 524-3391

February 28, 1997

RECEIVED
MAR 0 3 1997
Department of Water Resources
Eastern Region

Mr. Harold Jones
Idaho Dept. of Water Resources
900 N. Skyline
Idaho Falls, ID 83402

RE: Application for Transfer No. 3553

Dear Mr. Jones:

In response to your letter of February 4 and further Attorney Kent W. Foster's letter dated February 13, 1997, our client, D&D Enterprises, Inc., takes issue with a number of the suggestions and conclusions suggested in Foster's writing dated February 13.

I am disappointed at the tone of Mr. Foster's letter where he alludes to the fact that protestants have been responsible for holding up a hearing on his client's petition and the various amendments thereto. For your information, my client is looking forward to an early hearing, however, D&D feels very strongly that the hearing examiner at this time not shortcut the testimony and evidence in this case, that is, that said case follow the normal and orderly process and direction of a similar type hearing, starting off with an informal conference and/or pre-trial, together with the appropriate and necessary discovery and/or other preliminaries for the following reasons:

1. There needs to be a sorting out of the facts and issues to be developed by both the protestant and the objectors for the purpose of determining what are the claims of both the petitioner and/or protestants.

2. In view of the various amendments of petitioner, the overlapping of same, etc., this protestant is somewhat confused as to the direction and bottom line that applicant is seeking, which hopefully will be resolved at an appropriate pre-trial.

3. It would be most productive if each of the parties, as is normally required in a pre-hearing and/or pre-trial, were required to produce the names of their witnesses, the testimony of each, and further explore what if any areas and/or evidence said parties agree upon and or dispute.

4. By limiting the issues and laying on the table the evidence to be presented by each of the parties, said effort will streamline and shorten the trial time, thus saving substantial costs and expenses for the litigants including attorneys' fees to be expended by each of the litigants. My client most sincerely believes that the sharing of facts and evidence to be introduced by either of the parties will substantially cut down the trial time.

5. In view of the passage of time and the number of amendments that have occurred to applicant's petition, D&D Enterprises, Inc., feels that the time of D&D and it's counsel would be very productively spent by an appropriate pre-trial and/or pre-trials.

6. D&D Enterprises, Inc., at this writing, does not agree that the transcript referred to in Mr. Foster's letter should be submitted without further discussion at a pre-trial called for the purpose of addressing the subject of the use of said transcript in a new hearing.

For the various reasons as heretofore discussed, the writer, on behalf of D&D Enterprises, Inc., requests that the hearing officer assigned to the above entitled matter follow the normal and customary pre-trial hearings prior to setting said petition and subsequent amendments thereto down for trial on the merits.

Your consideration and understanding in complying with the requests of our client for the reasons as heretofore detailed, will be most sincerely appreciated. Best regards.

Very truly yours,

PETERSEN, MOSS, OLSEN,
CARR, ESKELSON & HALL

George C. Petersen, Jr.

GCP/jih
cc: D&D Enterprises, Inc.
Kent W. Foster, Esq.
Blair J. Grover, Esq.

LAW OFFICES
GROVER & ARCHIBALD
CHARTERED
215 FARNSWORTH WAY
P.O. BOX 36
RIGBY, IDAHO 83442-0036
PHONE (208) 745 6653
FAX (208) 745-6655

BLAIR GROVER

R. JAMES ARCHIBALD

March 5, 1997

RECEIVED
MAR 0 6 1997
Eastern Region

Harold Jones
Department of Water Resources
900 N Skyline Dr.
Idaho Falls, ID 83402

Re: Applications for Transfer No. 3553 - Birch Creek Ranches

Dear Harold:

I have received your letters of February 4 and February 12, 1997 with regard to the above transfers together with the response of Kent Foster dated February 13, 1997. I also have a copy of the response filed by George Peterson.

This letter is simply to indicate Lavar Newman concurs with the comments in Mr. Peterson's letter. I would also observe there appears to be a conflict between the February 4 letter and the February 12 letter on what will be considered at the hearing. I am assuming the February 12 letter supersedes the ones on February 4 and the issues will be as spelled out in the latter. We probably should have that confirmed so we know how the Department views the issues.

Done Hwd
3-10-97

Yours very truly,

GROVER & ARCHIBALD

BLAIR GROVER

BG:jn
cc: Lavar Newman

RECEIVED
MAR 0 4 1997
Department of Water Resources
Eastern Region

Law Offices of
Breck Barton & Associates, P.A.
70 North Center, Suite 2
P.O. Box 100
Rexburg, ID 83440

Breck H. Barton, J.D.
Gary L. Longmore, J.D., LL.M

(208) 356-4880
FAX (208) 356-4882

February 28, 1997

Mr. Norm Young
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720-9000

RE: Mac and Betty Wagoner Transfer application #3827

Dear Mr. Young:

I write for and in behalf of my clients, Mac and Betty Wagoner. I write to request that the department formally move to approve the exchange of water rights previously entered into and consummated between the Wagoners and Ted Sorenson. The department has a copy of the agreement entered into by the Wagoners and Sorenson for the exchange of their water rights. These water rights have in fact been exchanged. Consideration has been paid and deeds have been exchanged. Mr. Wagoner has recorded his deed. I enclose a copy of those deeds for your review.

Several years ago and concomitant with this exchange certain applications for transfer were filed. Ted Sorenson filed application for transfer #3827 under the name of Birch Creek Ranches, Inc. This application proposed to transfer the exchanged water from the Simmons ranch to the Wagoner ranch. This application is **still pending.** It has been the subject of a stipulation agreeing to the exchange by D&D Ranches Inc., and Mr. LaVar Newman. You have copies of their consents in your file.

Mr. Wagoner is now the owner of the water rights referenced in #3827. He demands that the department formally approve his exchange. It is ill conceived of the department and morally wrong to delay approval of this exchange. In fact, this water has been delivered to the Wagoner ranch and has been used by the Wagoner Ranch for more than 5 years.

Mr. Wagoner filed application #4166. This proposed to move the water exchanged to Mr. Sorenson to a point of diversion then specified by Mr. Sorenson. In fact, this application is now dead as the water rights mentioned therein have been transferred to Mr. Sorenson and are now his property. Further, these water rights now form a part of amended application #3553 recently filed by Ted Sorenson and for which publication for purposes of comment and/or protest has now been completed. Mr. Wagoner formally withdraws application #4166 if you desire to so note on your records but it is our position that this application is dead inasmuch as the water rights are now included in Mr. Sorenson's amended application #3553.

As part of the hearing process in application #3553 amended the department can readily ascertain and easily handle any move of those water rights formerly appurtenant to the Wagoner property to some location down stream. It would seem that defacto the exchange has been accomplished by all concerned except for the department having made official record of the same. There is absolutely no reason for the department to involve Mr. Wagoner in another round of protracted hearings on water rights to which he has no claim nor interest. Effectively, Mr. Wagoner is now the owner of application #3827 inasmuch as it describes his water rights and Mr. Sorenson is the owner of application #4166, which is dead, as the water rights therein have been fully consumed and dealt with by currently pending application #3553 amended.

In prior hearings we requested that the issue of the exchange be bifurcated. The department refused to do so. We still believe that the department was wrong in that determination and needlessly caused Mr. Wagoner significant legal expense as a participant in an unnecessary hearing. Please bear in mind that it has only been a few years since the department would readily have approved this exchange given the statutory basis previously existing for the exchange of water rights. In amending our water rights law we do not believe the legislature intended to prohibit exchanges of waters nor do we believe they intended to have the department exercise unnecessary and unwieldy procedures in effecting a simple exchange of water right priority dates.

Any currently pending protest to application #3553 amended can be dealt with as the same pertains to a **new** point of diversion and/or place of use for the water rights exchanged to Mr. Mr. Sorenson. The effect has been for the past several years that the water rights formerly appurtenant to the Simmons property have been appurtenant to the Wagoner property. Any transfer of water rights previously held by Wagoner can easily be dealt with in the currently pending application by Mr. Sorenson.

We request that the department take this action before any action whatsoever is taken concerning application #3553 amended as now pending. We request that such be done in 10 days. The patience of the Wagoners has been taxed and resources have been stretched.

It is not our intention to go through additional hearings that are needless to finalize this exchange.

As a final note, the departments records are absolutely clear that there are no protestants to this exchange of the water rights. Should Mac desire to move his water rights acquired from the Simmons property to some location other than his own such would be subject to publishing and protest. Effectively, Mr. Sorenson now desires to move the water rights acquired from Mr. Wagoners ranch to some location other than the Simmons property. Such can be dealt with effectively in the currently pending application #3553 amended. Please, take the action necessary to approve the exchange without the necessity of further legal involvement.

Very truly yours,

Breck Barton

BB/eh

Enclosure

cc: Mac & Betty Wagoner
Ron Carlson
Harold Jones

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

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS, P.A.
DALE W. STORER
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
SHAN B. PERRY

U.S. BANK OF IDAHO BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL HOLDNLAW@SRV.NET

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

RECEIVED
FEB 14 1997
Department of Water Resources
Eastern District Office

February 13, 1997

Mr. Harold Jones
IDAHO DEPARTMENT
OF WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718

Re: Application for Transfer No. 3553

Dear Mr. Jones:

We are in receipt of your letter of February 4, 1997, regarding the above matter. As you are aware, although this application has been amended a couple of times, the basic proposal for transfer has been pending for several years.

Neither we, the Department, nor the protestants, are new to the matter. Substantial efforts have been made over the years to find a way to resolve the protests, and while we hope for an opportunity for such resolution, our best judgment would be that the matter should be set for hearing at the earliest possible time. We doubt there would be much to be accomplished by an informal conference or even a prehearing conference. The issues will not have changed dramatically.

Indeed, we would propose that the transcript and exhibits from the prior hearing continue to remain part of the record in this case and be considered in the disposition by IDWR of the pending protests. We will look forward to an early hearing date and would be happy to discuss possible dates at your convenience. As you also know, we will need enough lead time to also confer with our expert, Dr. Charles E. Brockway, to make sure that he will be available for the hearing.

Thank you for your kind attention to this matter.

Very truly yours,

Kent W. Foster

pc. George Peterson
Blair Grover
Ted Sorenson

G:\WPDATA\KWF\6936\IDWR0213.LTR:sjw

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 12, 1997

BLAIR GROVER
PO BOX 36
RIGBY ID 83442-0036

RE: Applications for Transfer No. 3553 - BIRCH CREEK RANCHES LLC

Dear Protestant:

This letter acknowledges receipt of the protests filed by you on behalf of LaVar & Louise J. Newman against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute enlargement in the use of the original right?
3. Is the change consistent with the conservation of water resources within the State of Idaho?
4. Does the change conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of these items? You will be notified at a later date as to the time and place set for conference and/or hearing.

In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question. The address is as follows:

BIRCH CREEK RANCHES INC
5203 S 11TH EAST
IDAHO FALLS ID 83404

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W JONES
Water Rights Supervisor

HWJ:sc

cc: IDWR - State Office

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 12, 1997

PETERSEN, MOSS, OLSEN, CARR, ESKELSON & HALL
C/O GEORGE PETERSEN
485 "E" ST
IDAHO FALLS ID 83402

RE: Applications for Transfer No. 3553 - BIRCH CREEK RANCHES LLC

Dear Protestant:

This letter acknowledges receipt of the protests filed by you on behalf of D & D Enterprises Inc against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute enlargement in the use of the original right?
3. Is the change consistent with the conservation of water resources within the State of Idaho?
4. Does the change conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of these items? You will be notified at a later date as to the time and place set for conference and/or hearing.

In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question. The address is as follows:

BIRCH CREEK RANCHES INC
5203 S 11TH EAST
IDAHO FALLS ID 83404

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W JONES
Water Rights Supervisor

HWJ:sc

cc: IDWR - State Office

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 4, 1997

BIRCH CREEK RANCHES LLC
C/O HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS ID 83405

RE: Application for Transfer No. 3553

Dear Applicant:

Enclosed are a copies of protests filed against the issuance of the above referenced application. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Idaho Code § 42-203):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The applicant must be prepared to present evidence and/or testimony addressing each of the six items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If this office can be of further assistance, please contact us.

Sincerely,

Harold W. Jones rb

HAROLD W. JONES
Water Rights Supervisor
HWJ:rb

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 21, 1997

MR. MAC WAGONER
PO BOX 296
DUBOIS ID 83423

RE: TRANSFER NO 3827

Dear Mr. Wagoner:

I have been asked to respond to your letter to Karl Dreher dated December 3, 1996. First, please accept our apology for not responding sooner. As you know, there is a long history of issues related to water usage in your area and the files regarding these issues are extensive. I have had to review most of these files to get up to speed, and that has caused some delay.

As to Transfer No. 3827, I have reviewed the transfer application and the associated water right files. As you know, the transfer application is a reflection of one component in a two component plan to exchange water rights between yourself and the Birch Creek Ranch. The department believes it is ready to further process Transfer No. 3827 when it can be demonstrated that the other half of the exchange can be accomplished.

Mr. Spackman of this office issued an order on February 15, 1996, explaining why he felt the applications for transfer could not be bifurcated as proposed in a stipulation dated October 12, 1993. I have attached the order with this correspondence for your reference.

After several months of waiting for an amendment to the original transfer, No. 3553, which now includes the water rights that you had quit claimed to Birch Creek Ranches, the department has proceeded with publishing the public notice of this amended transfer. The last date of publication was January 9, 1997, and the last date for protest is January 21, 1997. If no protests are received, there will be no reason not to process both applications. If protests are received, Norm Young intends to schedule a pre-hearing conference as soon as possible.

Again, please accept my apology for not responding sooner. I can understand the frustration associated with the perception that your transfer application was just sitting on someone's desk unattended. It is clear to me that the department could not act on one half of the exchange while there is uncertainty existing on the other half. Now that the amended transfer process is proceeding, I believe Norm's intent to move quickly if protests are filed should provide you some relief.

If I can be of any further assistance, please let me know.

Sincerely,

Shelley Walton Kerr

for JIM JOHNSON, Manager
Water Permits Section

JJ:ph

Enclosures

Law Offices of
Breck Barton & Associates, P.A.
70 North Center, Suite 2
P.O. Box 100
Rexburg, ID 83440

Breck H. Barton, J.D.
Gary L. Longmore, J.D., LL.M

(208) 356-4880
FAX (208) 356-4882

FACSIMILE TRANSMISSION 525-7177

January 17, 1997

Harold Jones
Idaho Department of Water Resources
Idaho Falls, ID

RE: Pass Creek Water Rights Clarification as the same pertains to pending application of transfer by Birch Creek Ranches, Inc.

Gentlemen:

We write for and in behalf of our client, Blanche Wagoner. She and her deceased husband, have been the owners of certain lands located near Birch Creek in the upper reaches for many years. She and her husband have always used the waters of Pass Creek for watering their property.

At some point in the past there appeared to be confusion in the departments records as to whether a particular water right number, which number I am not sure of but which has been listed in the pending proposal filed by Birch Creek Ranches, Inc., for transfer, reflected water in Birch Creek or water in Pass Creek. Blanche and her husband executed an affidavit with Bill Simmons, the former owner of the Birch Creek Ranch Land. The affidavit was presented to the department to clarify that all waters in Pass Creek were appurtenant to lands held by Blanche.

[redacted]nsfer. In[redacted]perty I wo[redacted] might simply be a typographical error or some other type of clerical error. Therefore I request that clarification by the department be made. Blanche and/or her successors do not protest the transfer understanding that Pass Creek water is appurtenant to the Blanche Wagoner property and that clerical error has resulted in it being listed as part of

the transfer. If there is other water represented by the water right number that pertains to Birch Creek such may have caused the uncertainty.

I request that the department clarify for my client that Pass Creek water is appurtenant to the Blanche Wagoner Ranch and is not subject to transfer. I thank you in advance for your courtesies.

Very truly yours,

Breck Barton
BB/eh

# Proof of Publication

# The Post-Register

RECEIVED
JAN 17 1997
Department of Water Resources
Eastern District Office

State of Idaho,
County of Bonneville } ss

I, S. BOB BRIGHT or ROBERT PARK, first being duly sworn, depose and say: That I am the Production Supervisor or Asst. Prod. Supervisor of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eight (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for two consecutive weeks, first publication having been made on the 2nd day of January, 1997, last publication having been made on the 9th day of January, 1997, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

S Bob Bright

Subscribed and sworn to before me, this 15th day of January, 1997

Patricia O'Malley
Notary Public

My commission expires Jan 3, 2003

Pam

B10

PATRICIA O'MALLEY NOTARY PUBLIC STATE OF IDAHO

**NOTICE OF PROPOSED AMENDMENT OF APPLICATION OF WATER RIGHT TRANSFER NO. 3553**

Notice is hereby given that Birch Creek Ranches, L.L.C., c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., P.O. Box 50130, Idaho Falls, ID 83405, has applied to the Department of Water Resources to change point of diversion and place of use of the waters of Birch Creek tributary to sinks. The rights sought to be changed are evidenced by Decrees and recorded as follows:

Decreed to Samuel Goddard in case of Frank Reno, et al, vs. J.R. Richards dated October 12, 1894
Decree No.: 32-00102
Amount: 4.00 cfs
Priority: May 10, 1889
Point(s) of diversion and place of use not listed in decree

Decreed to Samuel Goddard in case of Agnes Reno, et al, vs. J.R. Richards dated September 6, 1922
Decree No.: 32-0085
Amount: .2 cfs
Priority: May 10, 1910
Decree No.: 32-0086
Amount: .2 cfs
Priority: May 01, 1911
Decree No.: 32-0087
Amount: .2 cfs
Priority: May 01, 1912
Point(s) of diversion not listed in decrees
The water is used to irrigate 120 acres within the SENW NESW NWSE SEC 09 T09N R30E B.M.

Decreed to George Goddard in case of Agnes Reno vs. J.R. Richards dated September 6, 1922
Decree No.: 32-0073
Amount: .2 cfs
Priority: May 15, 1909
Decree No.: 32-0077
Amount: .2 cfs
Priority: May 15, 1910
Decree No.: 32-0078
Amount: .2 cfs
Priority: May 15, 1911
Decree No.: 32-0079
Amount: .8 cfs
Priority: May 15, 1913
The water is used to irrigate 160 acres within the W1/2NE SENE NENW SEC 09 T09N R30E B.M.
POINTS OF DIVERSION NOT LISTED IN ABOVE DECREES

Decreed to C.B. Watts in case of Agnes Reno vs. J.R. Richards dated September 6, 1922
Decree No.: 32-0089
Amount: 2.5 cfs
Priority: May 10, 1888
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE SENE NESE SEC 24 T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.

Decree No.: 32-0090A
Amount: 1.6 cfs
Priority: May 10, 1886
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE NESE SEC 24 T10N R29E, B.M.; SENE SEC 24 SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.

Decreed to Edward M. Kaufman in case of Agnes Reno vs. J.R. Richards dated September 6, 1922
Decree No.: 32-0091
Amount: .5 cfs
Priority: May 01, 1901
Source: Pass Creek tributary to Birch Creek

Decree No.: 32-0092
Amount: 2.5 cfs
Priority: May 10, 1888
Decree No.: 32-0093
Amount: 1.6 cfs
Priority: May 10, 1886
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE SENE NESE SEC 24 T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.
The water is used from April 1 to November 1 to irrigate 960 acres within the W1/2NW SENW NESW W1/2SE SESE SEC 11 SWSW SEC 12 W1/2NW NWSW SEC 13 E1/2NE SEC 14 SESE SEC 24 NENE SEC 25 T10N R29E, B.M.; SWNW W1/2SW SESW SWSE SEC 19 SWSW SEC 29 NE N1/2NW SENW SEC 30 W1/2NE N1/2NW SENW NESW W1/2SE SEC 32 T10N R30E B.M.

Decreed to Wood Livestock Co. in case of Agnes B. Reno, et al, vs. J.R. Richards dated September 6, 1922 & September 6, 1932
Decree No.: 32-0068
Amount: 3.2 cfs
Priority: May 10, 1887
Source: Birch Creek tributary to sinks Millers Springs tributary to Birch Creek

Decree No.: 32-0069
Amount: 3.2 cfs
Priority: May 10, 1888
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE SENE NESE SEC 24 T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.
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Decreed to Jerome F. Reno in case of Agnes B. Reno, et al, vs. J.R. Richards, et al, dated September 6, 1922
Decree No.: 32-0061C
Amount: .4 cfs
Priority: May 10, 1888
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE SENE NESE SEC 24 T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.
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KARL J. DREHER
Director

Published: January 2, 9, 1997

**TRIBUNE PUBLISHING COMPANY, INC.**
The Lewiston Morning Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 01/10/97 INVOICE NO. 132896

Account No. 446600

Description 132896NOTICEOFPROPOSED

Times 2 Lines 106

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# LEGAL ADVERTISING INVOICE

SOLD TO: IDAHO DEPT. OF WATER RESOURCES
900 N. SKYLINE
IDAHO FALL ID 83402

$ 318.00

RECEIVED
JAN 15 1997
Department of Water Resources
Eastern Region

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
**Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.**

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NOTICE OF PROPOSED
AMENDMENT OF APPLICATION OF WATER
TRANSFER NO. 3553

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Decreed to Samuel Goddard in case of Frank Reno, et al, vs. October 12, 1894
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Amount: .2 cfs Priority: 1
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Amount: .2 cfs Priority: 1
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Decreed to C.B. Watts in case of Agnes Reno vs. J.R. Richards 1922
Decree No: 32-0089
Amount: 2.5 cfs Priority: M
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE SI T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R30E
Decree No: 32-0090A
Amount: 1.6 cfs Priority: M
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE N R29E, B.M.; SENE SEC 24 SWSW SEC 29 NWNW SEC 32 T1
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Decree No: 32-0091
Amount: .5 cfs Priority: M
Source: Pass Creek tributary to Birch Creek
Decree No: 32-0092
Amount: 2.5 cfs Priority: M
Decree No: 32-0093
Amount: 1.6 cfs Priority: M
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Amount: 3.2 cfs Priority: Ma
Source: Birch Creek tributary to sinks
Millers Springs tributary to Birch Creek
Decree No: 32-0069
Amount: 3.2 cfs Priority: Ma
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KARL J. DREHER, Director
Published in the Lewiston Morning Tribune and statewide on 1997.

# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 132896NOTICEOFP attached hereto and which is made a part of this affadavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 01/03, or once a WEEK for 2 consecutive WEEKS, the first publication thereof being on the 01/03/97, and the last publication thereof being on the 01/10/97, and said 132896NOTICEOFP was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

SUBSCRIBED AND SWORN BEFORE ME THIS THE _____ day of _____ 1997

Notary Public in and for the State of Idaho,
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Commission Expires _____

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Amount: .2 cfs Priority: May 01, 1911
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Amount: .2 cfs Priority: May 01, 1912
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Amount: .2 cfs Priority: May 15, 1909
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Decree No: 32-0078
Amount: .2 cfs Priority: May 15, 1911
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Source: Birch Creek tributary to sinks
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KARL J. DREHER, Director

Published in the Lewiston Morning Tribune and statewide on January 3 & 10, 1997.

# FIDAVIT OF PUBLICATION

OF IDAHO, ss.
of Nez Perce

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l and existing under and by virtue of the laws of the
daho, publishers of the LEWISTON MORNING TRIBUNE,
per of general circulation published at Lewiston, Nez Perce County,
at the said Lewiston Morning Tribune is an established newspaper
been published regularly and issued regularly at least once a day
than 21 consecutive years next immediately preceding the first
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consecutive WEEK, the first publication thereof being on
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NOTICE OF PROPOSED
AMENDMENT OF APPLICATION OF WATER
TRANSFER NO. 3553

Notice is hereby given that Birch Creek Ranches, L.L.C., Hahn, & Crapo, P.L.L.C., P.O. Box 50130, Idaho Falls, ID 834 Department of Water Resources to change point of diversi the waters of Birch Creek tributary to sinks. The rights sou evidenced by Decrees and recorded as follows:
Decreed to Samuel Goddard in case of Frank Reno, et al, v
October 12, 1894
Decree No: 32-00102
Amount: 4.00 cfs Priority
Point(s) of diversion and place of use not listed in decree.
Decreed to Samuel Goddard in case of Agnes Reno, et al, vs
September 6, 1922
Decree No: 32-0085
Amount: .2 cfs Priority:
Decree No: 32-0086
Amount: .2 cfs Priority:
Decree No: 32-0087
Amount: .2 cfs Priority:
Point(s) of diversion not listed in decrees
The water is used to irrigate 120 acres within the SENW N
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Amount: .2 cfs Priority:
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Amount: .8 cfs Priority:
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POINTS OF DIVERSION NOT LISTED IN ABOVE DECRE
Decreed to C.B. Watts in case of Agnes Reno vs. J.R. Richard
1922
Decree No: 32-0089
Amount: 2.5 cfs Priority:
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE
T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R30
Decree No: 32-0090A
Amount: 1.6 cfs Priority:
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE
R29E, B.M.; SENE SEC 24 SWSW SEC 29 NWNW SEC 32 T
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Decree No: 32-0091
Amount: .5 cfs Priority:
Source: Pass Creek tributary to Birch Creek
Decree No: 32-0092
Amount: 2.5 cfs Priority:
Decree No: 32-0093
Amount: 1.6 cfs Priority:
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE
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The water is used from April 1 to November 1 to irrigate 960
2NW SENW NESW W1/2SE SESE SEC 11 SWSW SEC 12 W1/
E1/2NE SEC 14 SESE SEC 24 NENE SEC 25 T10N R29E, B
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dated September 6, 1922 & September 6, 1932
Decree No: 32-0068
Amount: 3.2 cfs Priority
Source: Birch Creek tributary to sinks
Millers Springs tributary to Birch Creek
Decree No: 32-0069
Amount: 3.2 cfs Priority
Point(s) of diversion: NESW SEC 11 NENE SEC 14 NWNE
T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R3
The water is used from April 1 to November 1 to irrigate 96
2NW SENW NESW W1/2SE SESE SEC 11 SWSW SEC 12 W
E1/2NE SEC 14 SESE SEC 24 NENE SEC 25 T10N R29E,
SESW SWSE SEC 19 SWSW SEC 29 NE N1/2NW SENW SE
SENW NESW W1/2SE SEC 32 T10N R30E B.M.
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The water is used within the SWSW SEC 2 SENE E1/2SE S/
TO BE CHANGED AS FOLLOWS
The water will then be diverted from the SESW SEC 34 T0
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Any protests against approval of the proposed change
Idaho Department of Water Resources, 900 N. Skyline Dr.,
together with a protest fee of $25 on or before January 2
must also send a copy of the protest to the applicant.
KARL J. DREHER, Director
Published in the Lewiston Morning Tribune and statewi
1997.

# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 132896NOTICEOFP attached hereto and which is made a part of this affadavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 01/03, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 01/03/97, and the last publication thereof being on the 01/10/97, and said 132896NOTICEOFP was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Karen J. Lewis

SUBSCRIBED AND SWORN BEFORE ME THIS THE 13 day of January 1997

Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires 7/97

NOTICE OF PROPOSED AMENDMENT OF APPLICATION OF WATER RIGHT TRANSFER NO. 3553

Notice is hereby given that Birch Creek Ranches, L.L.C., c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., P.O. Box 50130, Idaho Falls, ID 83405, has applied to the Department Of Water Resources to change point of diversion and place of use of the waters of Birch Creek tributary to sinks. The rights sought to be changed are evidenced by Decrees and recorded as follows:

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Amount: 1.6 cfs Priority: May 10, 1886
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE NESE SEC 24 T10N R29E, B.M.; SENE SEC 24 SWSW SEC 29 NWNW SEC 32 T10N R30 E B.M.

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TO BE CHANGED AS FOLLOWS

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Any protests against approval of the proposed change must be filed with the Idaho Department of Water Resources, 900 N. skyline Dr., Idaho Falls, ID 83402, together with a protest fee of $25 on or before January 20, 1996. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER
Director
PUBLISH: **Thursday**, January 2 and 9, 1997

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**'it of Publication -**

'IDAHO
OF TWIN FALLS } SS.

№ 28937

ily McKnight being first duly sworn upon oath, depose
I am principle clerk of the TIMES-NEWS, published daily, at
, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per
ached, was published in the regular and entire issue of said newspaper, and not in any
thereof, for two ~~consecutive~~ days,
g with the issue dated Jan 2, 19 97,
with the issue dated January 9, 19 97.

d I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho
s, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except
of which newspapers prior to consolidation had been published under said names in said city and county
nd uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since
tion, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said
an daily publication under said name in said city and county continuously and uninterruptedly.
I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated
which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be
ly, will be published; and that at the head of the editorial column of said combined newspapers, and in each
hursday is announced as the day on which said legal notices will be published.

AHO
TWIN FALLS

9th day of Jan in the year of 1997, before me,
, personally appeared Emily McKnight,
ified to me to be the person whose name subscribed to the within instrument, and being by me first duly
that the statements therein are true, and acknowledged to me that he executed the same.

Drewa R. Feltman
Notary Public for Idaho
Residing at Twin Falls, Idaho.
My commission expires: 5/19/2000

SUBSCRIPTIONS • 31

# Affidavit of Publication

STATE OF IDAHO }
COUNTY OF TWIN FALLS } SS.

No 28937

I, Emily McKnight being first duly sworn upon oath, depose and say that I am principle clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two ~~consecutive~~ days, commencing with the issue dated Jan 2, 19 97, and ending with the issue dated January 9, 19 97.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 9th day of Jan in the year of 1997, before me, a Notary Public, personally appeared Emily McKnight, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Drew R. Feltman
Notary Public for Idaho
Residing at Twin Falls, Idaho.
My commission expires: 5/19/2000

# The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707-0040

## LEGAL ADVERTISING INVOICE

Amount Due: $333.00

RECEIVED
JAN 13 1997
Department of Water Resources
Eastern District Office

| Account Number/Trans. # | Identification | | | |
|---|---|---|---|---|
| 100564 | Notice of Proposed Amendment of Application of Water Right Transfer No.3553 | | | |
| **Ordered By** | **P.O. Number** | **Rate** | **Run Dates** | |
| Rita Bodell | | TT | January 2, 9, 1997 | |

Rita Bodell
IDAHO DEPARTMENT OF WATER RESOURCES
900 N. Skyline Drive
Idaho Falls ID 83402-1718

| Estimated Inches | Real Inches |
|---|---|
| # Affidavits | Legal Number |
| 1 | 6613 |

LINDA PORTER, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for Two

- ☒ consecutive weekly
- ☐ consecutive daily
- ☐ single
- ☐ odd skip

insertion(s) beginning with the issue of January 2, 1997
and ending with the issue of January 9, 1997

Linda Porter

STATE OF IDAHO )
) ss.
COUNTY OF ADA )

On this 9th day of January in the year of 1997, before me, a Notary Public, personally appeared LINDA PORTER known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

JANIE MODIE NOTARY PUBLIC STATE OF IDAHO

Janie Modie
Notary Public for Idaho
Residing at: Boise, Idaho
My commission expires: 5/97

## LEGAL NOTICE

### NOTICE OF PROPOSED AMENDMENT OF APPLICATION OF WATER RIGHT TRANSFER NO. 3553

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KARL J. DREHER, Director

Pub. January 2 & 9, 1997 6613

APPLICATION FOR TRANSFER OF

WATER RIGHT NO. 3553

WATER DISTRICT 32

RECEIVED
JAN 0 3 1997
Department of Water Resources
Eastern Region

WATERMASTER Donald W. Shenton

DATE: 1/2/97

COMMENTS: HAS THIS WATER RIGHT(S) BEEN DELIVERED WITHIN THE LAST FIVE YEARS? Water Right #32-0101 has not been diverted since 1990 and was only diverted at a rate of 1.37 c.f.s. for 15 days.
Water Right #32-0073/32-0085/32-0077/32-0086/32-0078/32-0087/and 32-0079 have not been diverted since early in 1990.
Water Right #32-0091 has not been delivered or diverted to Mr. Simmons, or Ted Sorenson, or Birch Creek Ranches at any time.
Water Dist. Records indicated water right #32-0091 belongs to Blanche Wagoner at all times that it is available.
The Miller Spring waters under water right #32-0068 belong to Mr. Bill Simmon and should not be part of this transfer. Miller Springs waters have not been diverted or delivered to either Mr. Sorenson or Mr. Simmons by the watermaster.
I note that the lands listed for water transfer on the Wilding Farm already have water rights appurtant to them and have historically been watered with well water licenses including irrigation last year.

X I do endorse approval of this change.

___ I do not endorse approval of this change.

I recommend the following conditions of approval:

That appropriate stream bed losses be assessed to all these water rights being transferred this great distance downstream.
That some consideration should be given to the fact that there will no longer be return flows directly to the creek from waters diverted to irrigation and then flowing over the lands and back into the Birch Creek Channel.

Donald W. Shenton
Watermaster

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Decree No.: 32-0078
Amount: .2 cfs Priority: May 15, 1911
Decree No.: 32-0079
Amount: .8 cfs Priority: May 15, 1913
The water is used to irrigate 160 acres within the W1/2NE SENE NENW SEC 09 T09N R30E B.M.
POINTS OF DIVERSION NOT LISTED IN ABOVE DECREES

Decreed to C.B. Watts in case of Agnes Reno vs. J.R. Richards dated September 6, 1922
Decree No.: 32-0089
Amount: 2.5 cfs Priority: May 10, 1888
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE SENE NESE SEC 24 T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.

Decree No.: 32-0090A
Amount: 1.6 cfs Priority: May 10, 1886
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE NESE SEC 24 T10N R29E, B.M.; SENE SEC 24 SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.

Decreed to Edward M. Kaufman in case of Agnes Reno vs. J.R. Richards dated September 6, 1922

* Decree No.: 32-0091
Amount: .5 cfs Priority: May 01, 1901
Source: Pass Creek tributary to Birch Creek
Decree No.: 32-0092
Amount: 2.5 cfs Priority: May 10, 1888
Decree No.: 32-0093
Amount: 1.6 cfs Priority: May 10, 1886
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE SENE NESE SEC 24 T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.
The water is used from April 1 to November 1 to irrigate 960 acres within the W1/2NW SENW NESW W1/2SE SESE SEC 11 SWSW SEC 12 W1/2NW NWSW SEC 13 E1/2NE SEC 14 SESE SEC 24 NENE SEC 25 T10N R29E, B.M.; SWNW W1/2SW SESW SWSE SEC 19 SWSW SEC 29 NE N1/2NW SENW SEC 30 W1/2NE N1/2NW SENW NESW W1/2SE SEC 32 T10N R30E B.M.

Decreed to Wood Livestock Co. in case of Agnes B. Reno, et al, vs. J.R. Richards dated September 6, 1922 & September 6, 1932

* Decree No.: 32-0068
Amount: 3.2 cfs Priority: May 10, 1887
Source: Birch Creek tributary to sinks
Millers Springs tributary to Birch Creek
Decree No.: 32-0069
Amount: 3.2 cfs Priority: May 10, 1888
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE SENE NESE SEC 24 T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.
The water is used from April 1 to November 1 to irrigate 960 acres within the W1/2NW SENW NESW W1/2SE SESE SEC 11 SWSW SEC 12 W1/2NW NWSW SEC 13 E1/2NE SEC 14 SESE SEC 24 NENE SEC 25 T10N R29E, B.M.; SWNW W1/2SW SESW SWSE SEC 19 SWSW SEC 29 NE N1/2NW SENW SEC 30 W1/2NE N1/2NW SENW NESW W1/2SE SEC 32 T10N R30E B.M.

Decreed to Jerome F. Reno in case of Agnes B. Reno, et al, vs. J.R. Richards, et al, dated September 6, 1922
Decree No.: 32-0061C
Amount: .4 cfs Priority: May 10, 1888
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE SENE NESE SEC 24 T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.
The water is used from April 1 to November 1 to irrigate 960 acres within the W1/2NW SENW NESW W1/2SE SESE SEC 11 SWSW SEC 12 W1/2NW NWSW SEC 13 E1/2NE SEC 14 SESE SEC 24 NENE SEC 25 T10N R29E, B.M.; SWNW W1/2SW SESW SWSE SEC 19 SWSW SEC 29 NE N1/2NW SENW SEC 30 W1/2NE N1/2NW SENW NESW W1/2SE SEC 32 T10N R30E B.M.

Decreed to Thomas J. Weimer in case of Agnes B. Reno, et al, vs. J.R. Richards, et al, dated September 6, 1922
Decree No.: 32-0101
Amount: 2.9 cfs Priority: June 4, 1909
The water is used within the SWSW SEC 2 SENE E1/2SE SEC 3 T10N R29E B.M.

TO BE CHANGED AS FOLLOWS

The water will then be diverted from the SESW SEC 34 T09N R30E Clark County (New Reno Diversion) and used to irrigate 1,120 acres within the N1/2 SEC 36 T09N R32E, S1/2 SEC 31 N1/2 SW1/4 SEC 32 T 09N R33E, B.M.

Any protests against approval of the proposed change must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID, 83402, together with a protest fee of $25 on or before January 20, 1996 7 The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER
Director

Published in the Post Register and statewide on January 2 & 9, 1996 7

# 1996

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 20, 1996

THE TIMES NEWS
PO BOX 548
TWIN FALLS ID 83303

Dear Publisher:

Enclosed you will find a legal notice which we wish to have published on the date indicated in your newspaper. If you cannot publish the notice on the proposed date, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JANUARY 21, 1997.

Yours truly,

Rita Bodell

Rita Bodell
Secretary

Enc.

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 20, 1996

THE LEWISTON MORNING TRIBUNE
PO BOX 957
LEWISTON ID 83501

Dear Publisher:

Enclosed you will find a legal notice which we wish to have published on the date indicated in your newspaper. If you cannot publish the notice on the proposed date, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JANUARY 21, 1996?

Yours truly,

Rita Bodell
Secretary

Enc.

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 20, 1996

THE IDAHO STATESMAN
PO BOX 40
BOISE ID 83707

Dear Publisher:

Enclosed you will find a legal notice which we wish to have published on the date indicated in your newspaper. If you cannot publish the notice on the proposed date, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JANUARY 21, 1996.7

Yours truly,

Rita Bodell

Rita Bodell
Secretary

Enc.

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 20, 1996

CATHY VONBORSTEL
POST REGISTER
PO BOX 1800
IDAHO FALLS ID 83403

Dear Publisher:

Enclosed you will find a legal notice which we wish to have published on the date indicated in your newspaper. If you cannot publish the notice on the proposed date, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JANUARY 21, 1996.

Yours truly,

Rita Bodell
Secretary

Enc.

NOTICE OF PROPOSED AMENDMENT OF APPLICATION OF WATER RIGHT TRANSFER NO. 3553

Notice is hereby given that Birch Creek Ranches, L.L.C., c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., P.O. Box 50130, Idaho Falls, ID 83405, has applied to the Department of Water Resources to change point of diversion and place of use of the waters of Birch Creek tributary to sinks. The rights sought to be changed are evidenced by Decrees and recorded as follows:

Decreed to Samuel Goddard in case of Frank Reno, et al, vs. J.R. Richards dated October 12, 1894
Decree No.: 32-00102
Amount: 4.00 cfs Priority: May 10, 1889
Point(s) of diversion and place of use not listed in decree

Decreed to Samuel Goddard in case of Agnes Reno, et al, vs. J.R. Richards dated September 6, 1922
Decree No.: 32-0085
Amount: .2 cfs Priority: May 10, 1910
Decree No.: 32-0086
Amount: .2 cfs Priority: May 01, 1911
Decree No.: 32-0087
Amount: .2 cfs Priority: May 01, 1912
Point(s) of diversion not listed in decrees
The water is used to irrigate 120 acres within the SENW NESW NWSE SEC 09 T09N R30E B.M.

Decreed to George Goddard in case of Agnes Reno vs. J.R. Richards dated September 6, 1922
Decree No.: 32-0073
Amount: .2 cfs Priority: May 15, 1909
Decree No.: 32-0077
Amount: .2 cfs Priority: May 15, 1910
Decree No.: 32-0078
Amount: .2 cfs Priority: May 15, 1911
Decree No.: 32-0079
Amount: .8 cfs Priority: May 15, 1913
The water is used to irrigate 160 acres within the W1/2NE SENE NENW SEC 09 T09N R30E B.M.
POINTS OF DIVERSION NOT LISTED IN ABOVE DECREES

Decreed to C.B. Watts in case of Agnes Reno vs. J.R. Richards dated September 6, 1922
Decree No.: 32-0089
Amount: 2.5 cfs Priority: May 10, 1888
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE SENE NESE SEC 24 T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.

Decree No.: 32-0090A
Amount: 1.6 cfs Priority: May 10, 1886
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE NESE SEC 24 T10N R29E, B.M.; SENE SEC 24 SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.

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Decree No.: 32-0091
Amount: .5 cfs Priority: May 01, 1901
Source: Pass Creek tributary to Birch Creek
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Amount: 2.5 cfs Priority: May 10, 1888
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Decree No.: 32-0068
Amount: 3.2 cfs Priority: May 10, 1887
Source: Birch Creek tributary to sinks
Millers Springs tributary to Birch Creek
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Amount: 3.2 cfs Priority: May 10, 1888
Point(s) of Diversion: NESW SEC 11 NENE SEC 14 NWNE SENE NESE SEC 24 T10N R29E, B.M.; SWSW SEC 29 NWNW SEC 32 T10N R30E B.M.
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Decree No.: 32-0101
Amount: 2.9 cfs Priority: June 4, 1909
The water is used within the SWSW SEC 2 SENE E1/2SE SEC 3 T10N R29E B.M.

TO BE CHANGED AS FOLLOWS

The water will then be diverted from the SESW SEC 34 T09N R30E Clark County (New Reno Diversion) and used to irrigate 1,120 acres within the N1/2 SEC 36 T09N R32E, S1/2 SEC 31 N1/2 SW1/4 SEC 32 T 09N R33E, B.M.

Any protests against approval of the proposed change must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID, 83402, together with a protest fee of $25 on or before January 20, 1997. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER
Director

Published in the Post Register and statewide on January 2 & 9, 1997

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 19, 1996

DON SHENTON
WATER DIST 32
PO BOX 33
DUBOIS ID 83423

RE: Application for Transfer No. 3553

Dear Mr. Shenton:

Please find enclosed a copy of the above referenced application. Please review the application and submit any comments you may have to our Department as soon as possible.

If we may be of further assistance, please feel free to contact us.

Thank you for your cooperation in this matter.

Respectfully submitted,

Harold W. Jones rb

Harold W. Jones
Water Right Supervisor

HWJ/rb
enc.

DECEMBER 19, 1996

D & D ENTERPRISES
C/O GEORGE PETERSEN
485 E ST
IDAHO FALLS ID 83402

Dear Protestant:

Birch Creek Ranches has amended transfer 3553. You currently have a protest filed against the transfer. This, as you may remember, concerned the exchange of rights from Mac Wagoner to Birch Creek Ranches.

This amended version adds other rights and additional lands to be irrigated to the North and East of the Power plant. Please let me know if you wish to have your protest stand or will withdraw it.

Sincerely,

Harold W Jones
Water Rights Supervisor

HWJ:sc

Enclosure

DECEMBER 19, 1996

MAC AND BETTY WAGONER
PO BOX 296
DUBOIS ID 83423

Dear Protestant:

Birch Creek Ranches has amended transfer 3553. You currently have a protest filed against the transfer. This, as you may remember, concerned the exchange of rights from Mac Wagoner to Birch Creek Ranches.

This amended version adds other rights and additional lands to be irrigated to the North and East of the Power plant. Please let me know if you wish to have your protest stand or will withdraw it.

Sincerely,

Harold W Jones
Water Rights Supervisor

HWJ:sc

Enclosure

DECEMBER 19, 1996

MARGERY BARE
C/O ALAN BARBER
PO BOX 51718
IDAHO FALLS ID 83405

Dear Protestant:

Birch Creek Ranches has amended transfer 3553. You currently have a protest filed against the transfer. This, as you may remember, concerned the exchange of rights from Mac Wagoner to Birch Creek Ranches.

This amended version adds other rights and additional lands to be irrigated to the North and East of the Power plant. Please let me know if you wish to have your protest stand or will withdraw it.

Sincerely,

Harold W Jones
Water Rights Supervisor

HWJ:sc

Enclosure

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 19, 1996

HOLDEN KIDWELL HAHN & CRAPO PLLC
BIRCH CREEK RANCHES LLC
PO BOX 50130
IDAHO FALLS ID 83405

RE: Notice of Application for Amended Transfer No. 3553

Dear Applicant:

The Department of Water Resources acknowledges receipt of your water right application. This office is currently in the process of advertising the application in the Post Register and statewide on January 2 & 9, 1997. The advertisements will be published once a week for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If an application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If an application is not protested, it will be forwarded to our State Office in about five weeks. State Office Personnel will conduct a complete review prior to final processing of the applications and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about twelve weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Harold W. Jones

Harold W. Jones
Water Right Supervisor

HWJ/rb

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

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS, P.A.
DALE W. STORER
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
FREDERICK J. HAHN, III

WEST ONE BANK BLDG.
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

April 22, 1996

RECEIVED
APR 23 1996
Department of Water Resources
Eastern District Office

Mr. Harold Jones
IDAHO DEPARTMENT
OF WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718

Re: Application of Birch Creek Ranches for Transfer

Dear Mr. Jones:

Birch Creek Ranches has just received a temporary use permit and right of way grant from the Bureau of Land Management for the proposed new system to deliver water from the power plant to the proposed new place of use.

Copies are enclosed for your file.

Very truly yours,

Kent W. Foster

Enclosure
G:\WPDATA\KWF\6936\IDWR0422.LTR:sjw

FORM 2800-14
(August 1985)

RECEIVED
APR 23 1996
Department of Water Resources
Eastern District Office

COPY

Issuing Office
Idaho Falls District Office

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

**RIGHT-OF-WAY GRANT**

**SERIAL NUMBER IDI-31560**

---

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

   a. By this instrument, the holder:

   ***Birch Creek Ranches, Inc.***
   ***5203 South 11th East***
   ***Idaho Falls, ID 83404***

   receives a right to construct, operate, maintain, and terminate a ***pipeline, canal, pond, and road***, on public lands described as follows:

   ***Boise Meridian, Idaho***
   ***T. 8 N., R. 31 E.,***
   ***sec. 11, E½SE¼;***
   ***sec. 12, S½N½, NW¼SW¼.***
   ***T. 8 N., R. 32 E.,***
   ***sec. 1, Lot 4;***
   ***sec. 2, Lot 1, S½NE¼, NW¼SE¼, E½SW¼, SW¼SW¼;***
   ***sec. 10, Lot 2, E½NE¼, SW¼NE¼, SE¼NW¼;***
   ***sec. 11, NW¼NW¼.***

   b. The right-of-way granted herein is for a ***pipeline*** ***18*** feet wide and ***16,108*** feet long, a ***canal*** ***30*** feet wide and ***5,329*** feet long, a ***road*** ***20*** feet wide and ***5,329*** feet long, and a ***2.98 acre pond*** for a total of ***15.76*** acres, more or less. If a site type facility, the facility contains ***N/A*** acres.

   c. This instrument shall terminate on _____, ***30*** years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

   d. This instrument ***may*** be renewed. If renewed, the right-of-way shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.

   e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations Part 2800.

b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within *180* days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.

c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way granted herein may be reviewed at any time deemed necessary by the authorized officer.

d. The stipulations, plans, maps, or designs set forth in Exhibit(s) *A and B*, dated *April 10, 1996*, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.

e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant shall constitute grounds for suspension or termination thereof.

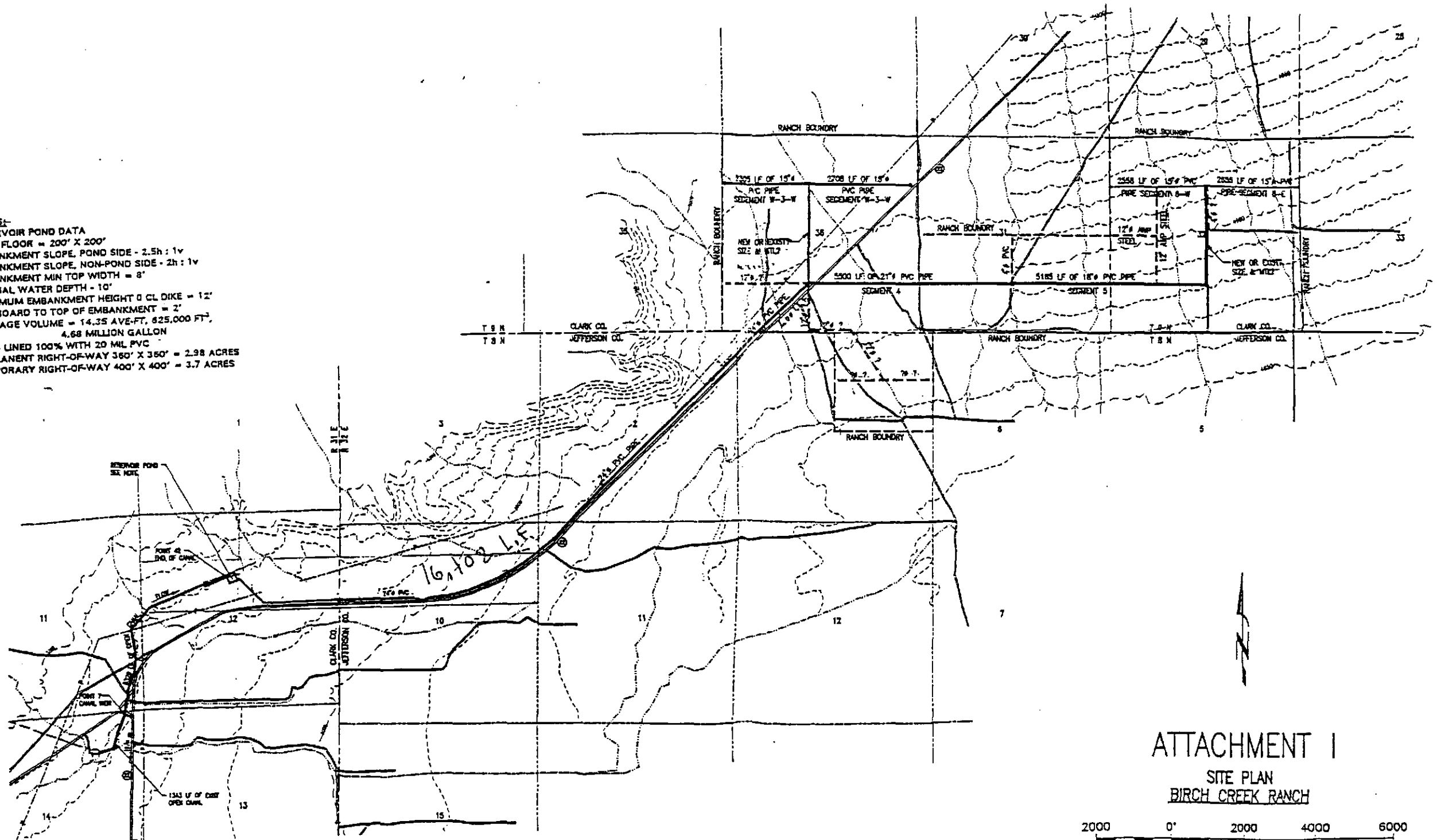
f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant.

| | |
|---|---|
| (Signature of Holder) | (Signature of Authorized Officer) |
| President | Area Manager, Medicine Lodge Resource Area |
| (Title) | (Title) |
| April 18, 1996 | 4-18-96 |
| (Date) | (Effective Date of Grant) |

Exhibit A
IDI-31560 and IDI-31560-01
April 10, 1996
Page 1 of 1

NOTES:-
RESERVOIR POND DATA
POND FLOOR = 200' X 200'
EMBANKMENT SLOPE, POND SIDE - 2.5h : 1v
EMBANKMENT SLOPE, NON-POND SIDE - 2h : 1v
EMBANKMENT MIN TOP WIDTH = 8'
NORMAL WATER DEPTH - 10'
MAXIMUM EMBANKMENT HEIGHT @ CL DIKE = 12'
FREEBOARD TO TOP OF EMBANKMENT = 2'
STORAGE VOLUME = 14.35 AVE-FT, 625,000 FT³,
4.68 MILLION GALLON
POND LINED 100% WITH 20 MIL PVC
PERMANENT RIGHT-OF-WAY 360' X 360' = 2.98 ACRES
TEMPORARY RIGHT-OF-WAY 400' X 400' = 3.7 ACRES




# ATTACHMENT 1
SITE PLAN
BIRCH CREEK RANCH

2000 0' 2000 4000 6000
SCALE IN FEET

| REVISIONS | REV LTR |
|---|---|
| ISSUED FOR BIDDING 8 FEB 96 | A |
| AS ADDED BOR, NOTED, SIGNED | |
| AS PREPARED BY JAN. 96 | |

DATE JAN. 1996
DRAWN SB
TRACED SB
CHECKED TSS
ISSUED TSS

BIRCH CREEK RANCHES
TED SORENSON

ATTACHMENT 1
SITE PLAN

SORENSON ENGINEERING, P.A.
CONSULTING ENGINEERS
IDAHO FALLS, IDAHO VANCOUVER, WASHINGTON

SCALE NOTED
DRAWING NO. ATTACH 1
SHEET NO. 1

ACAD PLOT SCALE 3000

## RIGHT-OF-WAY STIPULATIONS
(Birch Creek Ranches)

1. **The holder shall not initiate any construction or other surface disturbing activities on the right-of-way without the prior written authorization of the authorized officer.** Such authorization shall be a written notice to proceed issued by the authorized officer. Any notice to proceed shall authorize construction or use only as therein expressly stated and only for the particular location or use therein described.

2. Title to water associated with this grant shall continue to be legally authorized by the Idaho State Department of Water Resources (IDWR). Failure of the holder to remain in compliance with IDWR requirements regarding the use of water to the satisfaction of the Bureau of Land Management Authorized Officer will result in the automatic termination of this grant in accordance with 43 CFR 2803.4(a). No rights to the public lands accrue due to their description as the place of crossing in conjunction with a water right, beyond those described specifically by this grant nor beyond the term of this grant.

3. The holder shall contact Mud Lake Telephone Cooperative Association, Inc. (374-5401) a minimum of 24 hours prior to doing any soil disturbance work in the vicinity of Mud Lake Telephone's buried telephone cable. The advance notice will give Mud Lake Telephone the opportunity to locate and mark their telephone cable in the field.

4. A permit must be obtained from the Idaho Department of Transportation prior to beginning any construction work within the highway right-of-way. **A copy of this permit must be filed with the Medicine Lodge Area Manager prior to construction.**

5. The holder is required to contact and work with Vance Witbeck of Utah Power and Light Company's Rexburg office (356-7366) concerning the pipeline depth, road construction, and the canal grade located beneath Utah Power's transmission line. **Written documentation of this agreement must be filed with the Medicine Lodge Area Manager prior to construction.**

6. The holder must maintain a minimum distance of 50 feet between the edge of transmissions structures and the canal edge.

7. Historic Site 96-1-1, as documented by the Center for Environmental Anthropology, must be avoided. Disturbance activities shall come no closer than 30' to the recognized boundary of the site. **Fifteen (15) days prior to construction activities in the vicinity of Site 96-1-1, the grantee shall contact the BLM Authorized Officer so that the boundary of the site can be flagged.**

8. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

9. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).

10. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.

11. The holder shall seed all disturbed areas, using an agreed upon method suitable for the location. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after the first growing season. Seed shall be planted using a drill equipped with a depth regulator to ensure proper depth of planting where drilling is possible. The following seed mixture shall be used:

| | |
|---|---|
| (Sodar) Streambank Wheatgrass | 4 lbs./acre |
| (Secar) Bluebunch Wheatgrass | 5 lbs./acre |
| (Ephraim) Crested Wheatgrass | 2 lbs./acre |
| (Delar) Small Burnett | 2 lbs./acre |
| (Apar) Lewis Flax | ¼ lb./acre |

12. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a pretermination conference. This conference will be held to review the termination provisions of the grant.

FORM 2800-14
(August 1985)

COPY

Issuing Office
Idaho Falls District Office

RECEIVED
APR 23 1996
Department of Water Resources
Eastern District Office

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

**TEMPORARY USE PERMIT**

**SERIAL NUMBER IDI-31560-01**

1. A temporary use peermit is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

   a. By this instrument, the holder:

   ***Birch Creek Ranches, Inc.***
   ***5203 South 11th East***
   ***Idaho Falls, ID 83404***

   receives a right to construct, a ***canal, pipeline, and pond***, on public lands described as follows:

   ***Boise Meridian, Idaho***
   ***T. 8 N., R. 31 E.,***
   ***sec. 11, E½SE¼;***
   ***sec. 12, S½N½, NW¼SW¼.***
   ***T. 8 N., R. 32 E.,***
   ***sec. 1, Lot 4;***
   ***sec. 2, Lot 1, S½NE¼, NW¼SE¼, E½SW¼, SW¼SW¼;***
   ***sec. 10, Lot 2, E½NE¼, SW¼NE¼, SE¼NW¼;***
   ***sec. 11, NW¼NW¼.***

   b. The permit area granted herein is for a ***canal 30 feet wide and 5,329 feet long, a pipeline 22 feet wide and 16,108 feet long, and a pond with a construction area of .72 acres, more or less.***

   c. This instrument shall terminate on ***April 30, 1997***, ***1*** year from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

   d. This instrument ***may*** be renewed. If renewed, the permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.

   e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the permit.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

a. This permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations Part 2800.

b. Upon permit termination by the authorized officer, all improvements shall be removed from the public lands within *90* days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.

c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a permit granted herein may be reviewed at any time deemed necessary by the authorized officer.

d. The stipulations, plans, maps, or designs set forth in Exhibit(s) *A and B*, dated *April 10, 1996*, attached hereto, are incorporated into and made a part of this instrument as fully and effectively as if they were set forth herein in their entirety.

e. Failure of the holder to comply with applicable law or any provision of this permit shall constitute grounds for suspension or termination thereof.

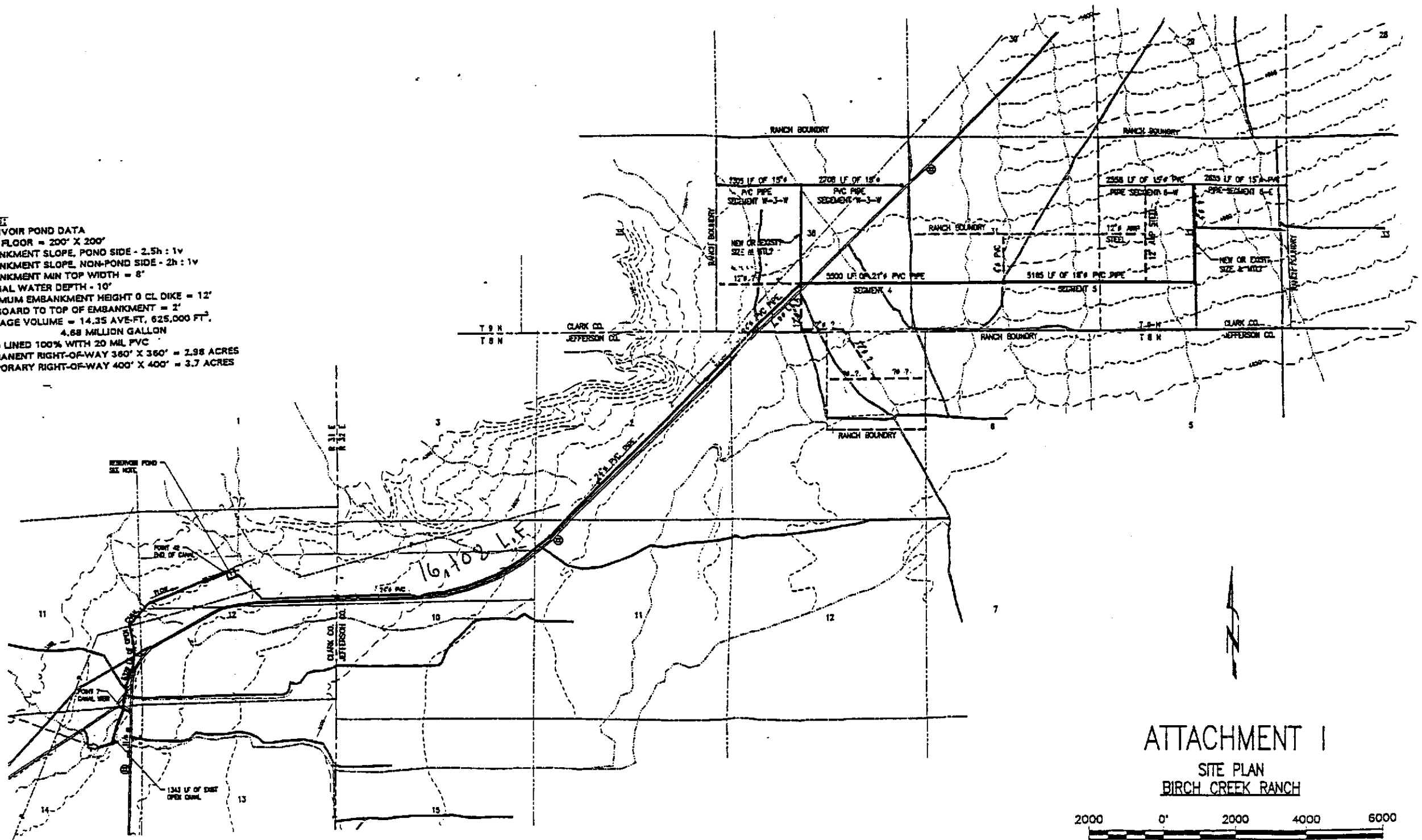
f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this permit.

| | |
|---|---|
| (Signature of Holder) | (Signature of Authorized Officer) |
| President | Area Manager, Medicine Lodge Resource Area |
| (Title) | (Title) |
| April 18, 1996 | 4-18-96 |
| (Date) | (Effective Date of Grant) |

Exhibit A
IDI-31560 and IDI-31560-01
April 10, 1996
Page 1 of 1

NOTES:
RESERVOIR POND DATA
POND FLOOR = 200' X 200'
EMBANKMENT SLOPE, POND SIDE - 2.5h : 1v
EMBANKMENT SLOPE, NON-POND SIDE - 2h : 1v
EMBANKMENT MIN TOP WIDTH = 8'
NORMAL WATER DEPTH - 10'
MAXIMUM EMBANKMENT HEIGHT 0 CL DIKE = 12'
FREEBOARD TO TOP OF EMBANKMENT = 2'
STORAGE VOLUME = 14.35 AVE-FT, 625,000 FT$^3$,
4.68 MILLION GALLON
POND LINED 100% WITH 20 MIL PVC
PERMANENT RIGHT-OF-WAY 360' X 360' = 2.98 ACRES
TEMPORARY RIGHT-OF-WAY 400' X 400' = 3.7 ACRES




N

# ATTACHMENT 1

SITE PLAN
BIRCH CREEK RANCH

2000 0' 2000 4000 6000
SCALE IN FEET

| | |
|---|---|
| REVISIONS | |
| REV LTR | A |
| DATE | JAN. 1996 |
| DRAWN | SB |
| CHECKED | SB |
| APPROVED | TSS |
| ISSUED | TSS |

BIRCH CREEK RANCHES
TED SORENSON

ATTACHMENT 1
SITE PLAN

SORENSON ENGINEERING, P.A.
CONSULTING ENGINEERS
IDAHO FALLS, IDAHO VANCOUVER, WASHINGTON

SCALE: NOTED
DRAWING NO.: ATTACH 1
SHEET NO.: 1

ACAD PLOT SCALE 3000

**RIGHT-OF-WAY STIPULATIONS**
(Birch Creek Ranches)

1. **The holder shall not initiate any construction or other surface disturbing activities on the right-of-way without the prior written authorization of the authorized officer.** Such authorization shall be a written notice to proceed issued by the authorized officer. Any notice to proceed shall authorize construction or use only as therein expressly stated and only for the particular location or use therein described.

2. Title to water associated with this grant shall continue to be legally authorized by the Idaho State Department of Water Resources (IDWR). Failure of the holder to remain in compliance with IDWR requirements regarding the use of water to the satisfaction of the Bureau of Land Management Authorized Officer will result in the automatic termination of this grant in accordance with 43 CFR 2803.4(a). No rights to the public lands accrue due to their description as the place of crossing in conjunction with a water right, beyond those described specifically by this grant nor beyond the term of this grant.

3. The holder shall contact Mud Lake Telephone Cooperative Association, Inc. (374-5401) a minimum of 24 hours prior to doing any soil disturbance work in the vicinity of Mud Lake Telephone's buried telephone cable. The advance notice will give Mud Lake Telephone the opportunity to locate and mark their telephone cable in the field.

4. A permit must be obtained from the Idaho Department of Transportation prior to beginning any construction work within the highway right-of-way. **A copy of this permit must be filed with the Medicine Lodge Area Manager prior to construction.**

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6. The holder must maintain a minimum distance of 50 feet between the edge of transmissions structures and the canal edge.

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8. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

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| | |
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| (Secar) Bluebunch Wheatgrass | 5 lbs./acre |
| (Ephraim) Crested Wheatgrass | 2 lbs./acre |
| (Delar) Small Burnett | 2 lbs./acre |
| (Apar) Lewis Flax | ¼ lb./acre |

12. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a pretermination conference. This conference will be held to review the termination provisions of the grant.

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

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS, P.A.
DALE W. STORER
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
FREDERICK J. HAHN, III

WEST ONE BANK BLDG.
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

April 1, 1996

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

Mr. Harold Jones
IDAHO DEPARTMENT
OF WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718

Dear Mr. Jones:

Enclosed for filing is an Amended Application for Transfer of Water Rights on behalf of Birch Creek Ranches, LLC. We have also enclosed our check in the amount of $50. This seems to be the correct amount per Idaho Code §42-221F. If you decide some other amount is more correct, please let us know.

The application and the attachments are somewhat lengthy; we hope they will not be too confusing. Basically, Birch Creek Ranches, LLC (the successor of Birch Creek Ranches, Inc.) has acquired 800 acres of farmland from See Farms, Inc. (Ericksons) (see enclosed copies of deeds) and 320 acres from the State of Idaho (see enclosed copies of deeds) to which it is proposed to transfer all the remaining Simmons water rights, the Woodie water right and the Wagoner water rights now owned by Birch Creek Ranches, LLC.

The water, after being discharged through the power plant into the Reno Ditch, flows north and a little east into Section 11, Township 8 North, Range 31 East, where it would then be taken across the road onto BLM ground, thence easterly and a little north through a lined open canal some 12,242 feet to a small pond, thence primarily northeasterly through buried mainline to create a gravity flow sprinkler system at the place of use.

A right of way application for the open canal, pond and buried mainline is pending with BLM. A copy is enclosed with this letter. We expect this to be completed expeditiously, but we hope to avoid the issue of which comes first, the transfer by the state or the grant of the right of way by BLM.

One last little matter has also been cleared up. In the past versions of this transfer application, we always had to except .1cfs of some of the Simmons rights for the Blue Dome property owned by Janice Judy. Birch Creek Ranches, LLC has also acquired the Judy land and so this application now includes that .1cfs (see enclosed copies of deeds).

Very truly yours,

Kent W. Foster

Enclosure
G:\WPDATA\KWF\6936\IDWR0401.LTR:sjw

RECEIVED
MAY 2 1989
Department of Water Resources
Eastern District Office

May 16, 1989

Idaho State Department
of Water Resources
Attn: R. Keith Higginson, Director
150 Shoup Avenue, Suite 15
Idaho Falls, ID 83402

RE: Notice of Proposed change of water right
Birch Creek Ranches, Inc.

Dear Mr. Higginson:

By this letter I hereby protest the Notice of Proposed Change of Water Rights filed by Birch Creek Ranches, Inc. for change in point of diversion and place of use to the waters of Birch Creek and certain tributaries as recorded in the case of Reno v. Richards, particularly as the change pertains to water right #32-0091 decreed to Edward M. Kaufman (T 2165) from Pass Creek tributary to Birch Creek, priority 5191909 for .50 cfs.

The aforementioned water right in Pass Creek is appurtenant to lands currently owned by Blanche Wagoner. This water right apparently was set forth in the decree as being appurtenant to lands owned by the predecessors in interest of William T. Simmons and Theola Simmons but in fact the Simmons land has never been irrigated with waters from Pass Creek. Pass Creek waters have always been used to irrigate our land.

By letter dated May 17, 1977, to the Department of Water Resources, Williams T. Simmons and Theola Simmons as well as my husband, Clifton Wagoner, and myself, Blanche Wagoner, so informed the Department and agreed to the change in any records necessary to reflect that Pass Creek waters have always been used by and are appurtenant to the Wagoner property.

There is no water right in Pass Creek to appropriate or to transfer. Historically, all of the waters of Pass Creek have been diverted for beneficial use on our property. Waters from Pass Creek to my knowledge have never entered Birch Creek. They have either sunk or have been used on our land. There is no water in Pass Creek that is appurtenant to Birch Creek Ranches, Inc. to transfer.

I believe that your records recently filed in the general adjudication of the Snake River Basin water system reflect that on Identification #A32-00091, which I presume is the same right listed in your publication of Notice of Proposed Change of Water Right, is in fact listed in the name of Blanche Wagoner with the remarks that a copy of the document transferring those rights from Simmons to Wagoner should be noted.

Please notify me of your date of hearing on this matter as I desire to attend the same and request that such hearing be held.

Very truly yours,

Blanche Wagoner

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
305 WEST MAIN
REXBURG, IDAHO 83440

BRECK H. BARTON

P.O. BOX 100
(208) 356-4880

May 16, 1989

RECEIVED
MAY 22 1989
Department of Water Resources
Eastern District Office

Idaho State Department
of Water Resources
Attn: R. Keith Higginson, Director
150 Shoup Avenue, Suite 15
Idaho Falls, ID 83402

RE: Notice of Proposed change of water right
Birch Creek Ranches, Inc.

Dear Mr. Higginson:

For and in behalf of our client, Mac and Betty Wagoner, we hereby protest the Notice of Proposed Change of Water Rights published in the Post Register May 11, 1989, by Birch Creek Ranches, Inc.

The basis of the protest is as follows: Our clients, Mac and Betty Wagoner, have decreed water rights in and to Birch Creek. We understand that certain of the water rights of Birch Creek Ranches, Inc. are prior in time to our clients' decreed rights. If the water right transfer proposed by Birch Creek Ranches, Inc. is effected, the change in point of diversion will be some many miles downstream from its current location. Birch Creek is a very porous stream bed and there will be a significant transportation loss. The effect of this change will be that the amount of water decreed as appurtenant to lands owned by Birch Creek Ranches, Inc. will suffer a decrease in changing its point of diversion and place of use to some miles downstream. It will not be possible to take the same volume of water appurtenant to the Birch Creek Ranches, Inc. lands as they now stand and historically have been used and to shift that use many miles downstream without suffering a transportation loss. If the transfer is approved without consideration of a transportation loss, then all upstream users from the new points of diversion proposed by Birch Creek Ranches, Inc. and whose priority dates and or decreed dates are later in time than those of Birch Creek Ranches, Inc. will be forced to modify their irrigation practices and will suffer a decrease in their irrigation water as they will in essence be absorbing the transportation loss of the water from point A to point B as proposed by Birch Creek Ranches, Inc. Such an impact is inappropriate, counter to the established practices as well as laws of the state of Idaho, and should not be allowed.

It further appears that the change in point of diversion and place of use may well represent an expansion of use in that the water will be used not only to irrigate land but will also undergo the additional use of power generation. Further, the Notice of Proposed Change does not indicate the number of acres actually irrigated under the current rights appurtenant to Birch Creek Ranches, Inc. nor does it indicate the number of acres to actually be irrigated under the proposed change. If in fact there have been fewer acres irrigated under flood irrigation practices or a combination of flood and sprinkler irrigation than would be irrigated after the proposed change, such expansion would appear to be inappropriate.

We request that we be notified of a hearing date set and request that such hearing be held on this and any other objections to the water right change.

Very truly yours,

Breck Barton

BB/dj

cc: Wagoners

John D. Hansen, Esq.
Alan E. Barber, Esq.
HANSEN, BEARD, MARTIN & ST. CLAIR, CHARTERED
P. O. Box 51718
Idaho Falls, ID 83405-1718
Telephone: (208) 523-5171

Attorneys for Protestant

RECEIVED
MAY 2 1 1989
Department of Water Resources
Eastern District Office

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

| | | |
|---|---|---|
| In Re Application for Transfer of Water Rights in the name of Birch Creek Ranches, Inc. | ) ) ) ) | PROTEST |

RE: Application for Change in Point of Diversion, Change in Place of Use, Change in Nature of Use.

APPLICANT: Birch Creek Ranches, Inc.

RIGHT NUMBERS AFFECTED: 32-0067, 32-0090, 32-0093, 32-0068, 32-0089, 32-0069, 32-0092, 32-0061C, 32-0091

SOURCE: Birch Creek, tributary to sinks.

DIVERSION POINT: SE 1/4, SW 1/4, section 34, Township 9 North, Range 30 East.

DATE APPLICATION FILED: April 19, 1989.

PROTESTANT: H. Margery Bare

H. Margery Bare ("protestant") protests the granting of the above identified application for transfer of water right, for the following reasons without limitation:

1. Protestant is one of the contract vendors of the real property to which the affected water rights are appurtenant, as follows:

On or about April 3, 1975, protestant and G. Marshal Bare as vendors and William T. Simmons and Theola Simmons as vendees, entered into a sale contract regarding the real property to which the affected water rights are appurtenant. A notice of contract of sale regarding that transaction was duly recorded as instrument no. 42322 in the records of Clark County, Idaho. Pursuant to the terms of the sale contract, vendors retained title in fee simple to the real property until the contract is paid in full. Only then will vendees receive clear title to that real property from the escrow agent.

Simmons subsequently assigned their interest in the sale contract to Mr. Ted Sorenson and Birch Creek Ranches, Inc. The sale contract has not been paid in full; in fact, there is a significant balance owed on that contract, and payments will continue until approximately the turn of the century.

The real property and appurtenant water rights therefore stand as collateral and security for the payment to protestant of the purchase price. Any diversion of water from the real property will irreparably harm that property and will impair the value of protestant's security for the prompt payment of the outstanding balance due her under the sale contract.

2. Protestant, as the holder of a contract interest to which the real property that will be affected by the proposed transfer of water rights is subject, has not given her signed and notarized consent agreeing to the proposed change, as required by

paragraph 6(b) of part 1 of the application for transfer of water right.

3. The proposed transfer of water right will result in waste to the real property and depreciation of its value in that, without limitation, if the water is ever returned to the real property, intervening changes may have occurred that will materially reduce the ability to deliver water to the property and will materially and adversely affect the real property's suitability for irrigation.

4. The approval of this transfer of water right will not be in the local public interest, as required by Idaho Code § 42-203A(5)(e), in that this transfer will conflict with the affairs of the people in the area directly affected by the proposed change.

5. Protestant's attorneys have only recently been retained to file this protest on her behalf, and have only begun their investigation into this matter. Protestant, therefore, respectfully requests the right to file an amended protest to set

forth with more specificity the grounds for her protest and to identify further grounds in support of her protest.

DATED this 22 day of May, 1989

H. Margery Bare

H. Margery Bare

Alan E. Barber, Esq.
of HANSEN, BEARD, MARTIN
& ST. CLAIR, CHARTERED
Attorneys for Protestant

Protestant's Address:
P. O. Box 72
Dubois, ID 83423

Bare:
AEB:km:89-142
A9142P12

Form 222
1-87

Page 1 of 24

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

Transfer No. _____

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 1

Name of applicant Birch Creek Ranches, Inc. Phone (208) 523-0620

Post Office address Box 50130, Idaho Falls, Idaho 83405

**A. PURPOSE OF TRANSFER**

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☒ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes To transfer point of diversion and place of use. For more detail, please see the attachment.

**B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE** CONTINUED ON PAGE 3

1.

| Right Number | Priority | Amount (cfs/ac-ft) | Nature of Use | Period of Use | | |
|---|---|---|---|---|---|---|
| ×32-0067 | 9/10/1882 | 3.2 cfs | Irrigation | April 1 | to | Nov. 1 |
| ×32-0090 | 5/10/1886 | 1.6 cfs | Irrigation | April 1 | to | Nov. 1 |
| 1/2 32-0093 | 5/10/1886 | *1.6 cfs | Irrigation | April 1 | to | Nov. 1 |
| 32-0068 | 5/10/1887 | 3.2 cfs | Irrigation | April 1 | to | Nov. 1 |
| 32-0089 | 5/10/1888 | 2.5 cfs | Irrigation | April 1 | to | Nov. 1 |

2. Total amount of water being transferred ~~18.6~~ 18.7 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Birch Creek tributary to Sinks

4. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | SE | SW | 34 | 9N | 30E | Clark | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

5. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 8N | 31E | 12 | | | | | | | | | | | | 40 | | 40 | 40 | 40 | 160 |
| 8N | 32E | 10 | | | | | | | | | 40 | 40 | | | 40 | 40 | 40 | 40 | 240 |
| | | 11 | | | | | | | 40 | 40 | 40 | 40 | 40 | 40 | | | | | 240 |
| | | 14 | | | | | 40 | 40 | | | | | | | | | | | 80 |
| | | 1 | | | | | | | | | | | | | 40 | | | 40 | 80 |
| 8N | 33E | 6 | | | | | | | | | 40 | | | 40 | | 40 | 40 | | 160 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres 960

## PART 1

6. General Information:

a. Description of diversion system An earthen dam with a buried PVC liner has been placed in Birch Creek at the point of diversion to divert water through the new lined power channel to the power plant and thence into the lower portion of the old Reno Ditch.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? X Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

Land will no longer be irrigated.

d. Remarks:

*.10 cfs of the combination of 32-0091, 32-0092 and 32-0093 is still appurtenant to the Blue Dome property and will not be transferred. See Transfer No. 2165.

## ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

_____

Form 222
1-87

Page 3 of 24

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

Transfer No 3553

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 1

Name of applicant Birch Creek Ranches, Inc. Phone _____

Post Office address _____

### A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
   ☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes _____

### B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1.

| Right Number | Priority | Amount (cfs/ac-ft) | Nature of Use | Period of Use | | |
|---|---|---|---|---|---|---|
| 32-0069 | 5/10/1888 | *3.2 cfs | Irrigation | April 1 | to | Nov. 1 |
| 32-0092 | 5/10/1888 | *2.5 cfs | Irrigation | April 1 | to | Nov. 1 |
| 32-0061C | 5/10/1888 | .4 cfs | Irrigation | April 1 | to | Nov. 1 |
| 32-0091 | 5/01/1901 | * .5 cfs | Irrigation | April 1 | to | Nov. 1 |

2. Total amount of water being transferred _____ cubic feet per second and/or _____ acre-feet per annum.
3. Source of water _____ tributary to _____
4. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

5. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

## PART 1

6. General Information:

a. Description of diversion system _____

_____

_____

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

_____

_____

_____

_____

d. Remarks:

_____

_____

_____

## ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

_____

_____

_____

_____

_____

_____

_____

_____

Witness my hand this _____ day of _____, 19 ____.

_____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:
   a. Decree No. 32-0067 Decreed to Wood Livestock Co.
   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
   dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority September 10, 1882
5. Water is used for the following purpose:
   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion: Continued on Page 6

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | NW | NE | 24 | 10N | 29E | Clark | |
| | | NE | SE | 24 | 10N | 29E | Clark | |
| | | SE | NE | 24 | 10N | 29E | Clark | |

8. Lands irrigated or place of use: Continued on Page 6

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 29E | 11 | | | | | | 30 | 35 | 35 | 30 | | | | | 35 | 10 | 40 | 215 |
| | | 12 | | | | | | | | | | | 35 | | | | | | 35 |
| | | 13 | | | | | | 35 | 40 | | | 15 | | | | | | | 90 |
| | | 14 | 35 | | | 20 | | | | | | | | | | | | | 55 |
| | | 24 | | | | | | | | | | | | | | | | 25 | 25 |
| | | 25 | 10 | | | | | | | | | | | | | | | | 10 |

Total acres 960

9. Describe any other water rights used for the same purpose as described above 32-0090, 32-0093, 32-0068, 32-0089, 32-0069, 32-0092, 32-0061, 32-0091.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0067 Decreed to Wood Livestock Co.
   in case of _____ vs. _____
   dated _____ in _____ county of _____
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water _____ tributary to _____
4. Date or priority _____
5. Water is used for the following purpose:

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | SW | SW | 29 | 10N | 30E | Clark | |
| | | NW | NW | 32 | 10N | 30E | Clark | |
| | | NE | NE | 14 | 10N | 29E | Clark | |
| | | NE | SW | 11 | 10N | 29E | Clark | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 30E | 19 | | | | | | | 30 | | | 10 | 15 | 35 | | | 20 | | 110 |
| | | 29 | | | | | | | | | | | 20 | | | | | | 20 |
| | | 30 | 10 | 20 | 30 | 20 | 20 | 35 | | 35 | | | | | | | | | 170 |
| | | 32 | | 5 | 15 | | 35 | 20 | | 40 | 35 | | | | | 40 | 40 | | 230 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

_____ If yes, describe _____

## B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

## C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0090 Decreed to C. B. Watts
   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
   dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 10, 1886
5. Water is used for the following purpose:
   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0067, 32-0093, 32-0068, 32-0089, 32-0069, 32-0092, 32-0061, and 32-0091.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0093 Decreed to Edward M. Kaufman
      in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
      dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 10, 1886
5. Water is used for the following purpose:
   amount 1.6 cfs (cfs/ac-ft) for irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0067, 32-0090, 32-0068, 32-0089, 32-0069, 32-0092, 32-0061, 32-0091.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

   a. Decree No. 32-0068 Decreed to Wood Livestock Co.

   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.

   dated September 6, 1922 in 9th District Court county of Fremont

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Birch Creek tributary to Sinks

4. Date or priority May 10, 1887

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0067, 32-0090, 32-0093, 32-0089, 32-0069, 32-0092, 32-0061, and 32-0091.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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Total acres _____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0089 Decreed to C. B. Watts
      in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
      dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 10, 1888
5. Water is used for the following purpose:
   amount 2.5 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 2.5 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0067, 32-0090, 32-0093, 32-0068, 32-0069, 32-0092, 32-0061, and 32-0091.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0069 Decreed to Wood Livestock Co.
      in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
      dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 10, 1888
5. Water is used for the following purpose:
   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0067, 32-0090, 32-0093, 32-0068, 32-0089, 32-0092, 32-0061, and 32-0091.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:
   a. Decree No. 32-0092 Decreed to Edward M. Kaufman
      in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
      dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 10, 1888
5. Water is used for the following purpose:
   amount 2.5 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 2.5 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0067, 32-0090, 32-0093, 32-0068, 32-0089, 32-0069, 32-0061, and 32-0091

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0061 Decreed to Jerome F. Reno
      in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
      dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 256 and 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 10, 1888
5. Water is used for the following purpose:
   amount .4 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right .4 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0067, 32-0090, 32-0093, 32-0068, 32-0089, 32-0069, 32-0092, and 32-0091.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0091 Decreed to Edward M. Kaufman
   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
   dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice Pass Creek ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks Birch Creek
4. Date or priority May 1, 1901
5. Water is used for the following purpose:
   amount .5 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right .5 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | SAME AS 32-0067 | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0067, 32-0090, 32-0093, 32-0068, 32-0089, 32-0069, 32-0092, and 32-0061.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

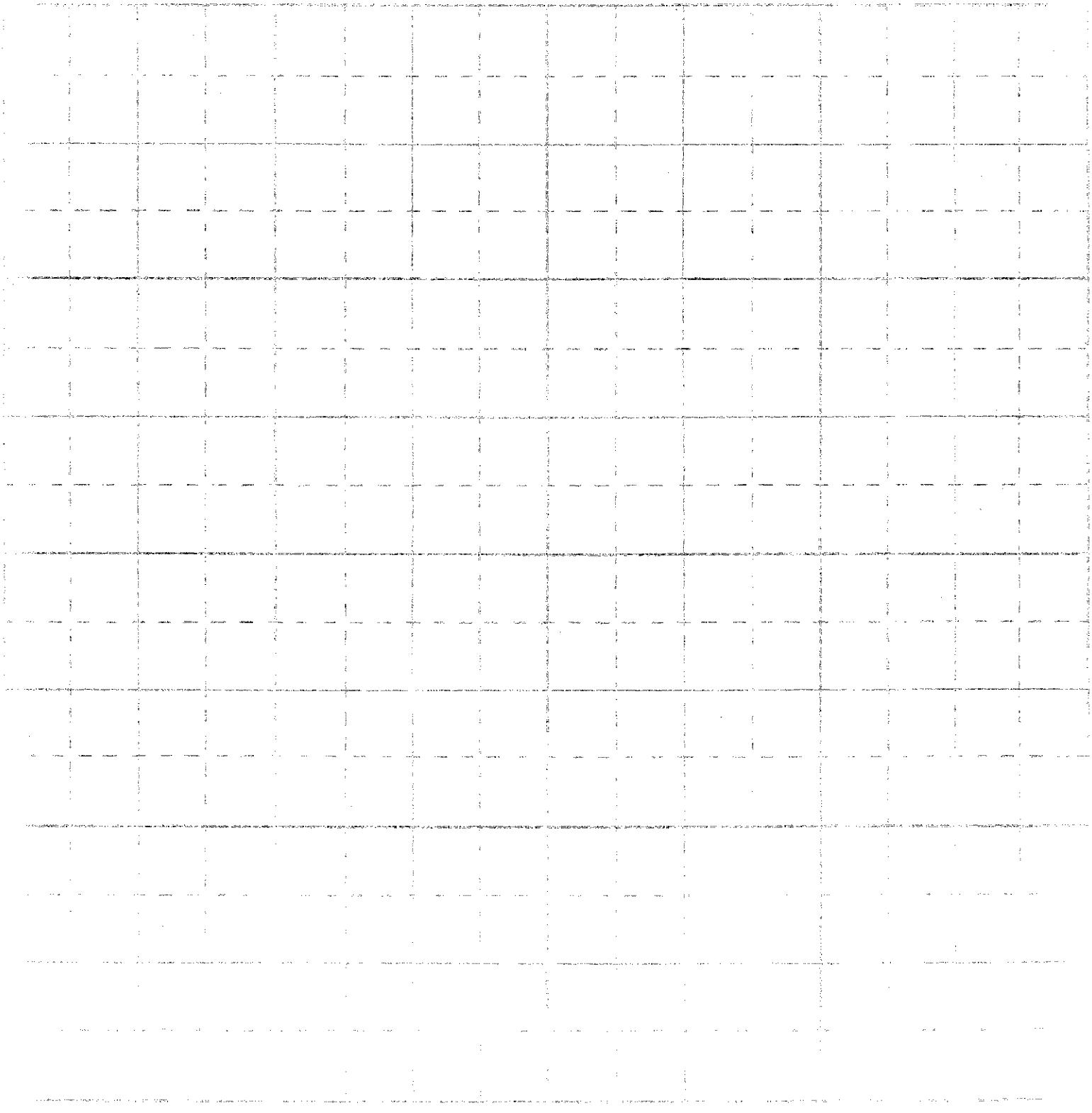
Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 3

**A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.**



SCALE: 2 inches equal 1 mile. Draw plan in ink.

## PART 3

### B. CHANGES IN NATURE OF USE

| 1. New Nature of Use | Amount (cfs/ac-ft) | Hours/days/year | Period of Use |
|---|---|---|---|
| | | | _____ to _____ |
| | | | _____ to _____ |

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Wm T. Williams
(Signature of Applicant)

Subscribed and sworn to before me this 17th day of April, 1989.

David E Benton
(Notary Public)

My commission expires 11-04-91

### FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by (illegible) Date 4-19-89 Protest filed by _____

Prelim. check by _____ Fee $50.00 _____

Receipted by HWJ E006948 Date 4-20-89 _____

Published in Statewide Times News Copies of protest forwarded by _____

Pub. dates 5-4, 11, 89 6-15, 22, 89 (re-ad) Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

**ATTACHMENT NO. 1**

The new point of diversion for these water rights is the same diversion now used for all of the water rights for D & D Enterprises, Inc.; that is, the dam and facilities which divert Birch Creek water into the new power channel, through Sorenson Engineering's power plant and then into the lower portion of the Old Reno Ditch.

All of this additional water will run through the Sorenson power plant before it enters the Reno Ditch and Sorenson Engineering is paying a portion of the lease payments to Birch Creek Ranches, Inc.

Sorenson Engineering is the holder of Water Rights Nos. 32-07128 and 32-07136, for a total of 75 cubic feet per second of the waters of Birch Creek, from January 1 through December 31 of each year. That is the capacity of the power plant and the channel and pipeline will easily accommodate such a flow. However, even with the increased flows through the power canal anticipated to result from this transfer, diversions will still be substantially less than the capacity.

Hence it appears that while the increased flows will generate additional electricity at the power plant, the existing water rights for such purposes are more than adequate for the anticipated increased flows which will result from this transfer.

#5691.00
8812g/srr

FROM: KEITH C. WILSON 27 APRIL 1988
TO: FILE 32-0091/0092/0093, & TRANSFER # 2165

IN RESEARCHING WATER RIGHTS 32-0091/0092/0093 A POSSIBLE ERROR HAS BEEN FOUND IN THE INTERPRETING THE 1937 JUDGEMENT CORRECTING A CLERICAL ERROR FOR THE 1922 AGNES RENO VS. J.R. RICHARDS DECREE.

CURRENTLY THE RIGHTS ARE CODED AS FOLLOWS:

32-0091 (0.5 CFS) PASS CREEK, 10 MAY 1901
32-0092 (2.5 CFS) BIRCH CREEK, 10 MAY 1888
32-0093 (1.6 CFS) BIRCH CREEK, 10 MAY 1886

PROPOSED CORRECTION ONLY FOR RIGHT 32-0092:

32-0092 (2.5 CFS) PASS CREEK, 10 MAY 1888

IN CORRECTING THE DECREE THE JUDGEMENT INCLUDED THE PARAGRAPH THAT DESCRIBED THE THE RIGHTS BUT A COMMA WAS USED AFTER THE 1888 PRIORITY OF 32-0092 WHICH WOULD LEAD ONE TO BELIEVE THAT THE SOURCE FOR BOTH 32-0093 AND 32-0092 SHOULD BE CHANGED TO BIRCH CREEK. HOWEVER, IN READING THE COMPLETE JUDGEMENT ONLY RIGHT NUMBER 32-0093 WAS MENTIONED AND, THEREFORE, RIGHT 32-0092 SHOULD BE CHANGED AND CODED CORRECTLY TO REFLECT THE SOURCE AS PASS CREEK.

IT SHOULD ALSO BE NOTED THAT TRANSFER #2165 APPEARS TO HAVE BEEN COMPLETED USING BIRCH CREEK AS THE INCORRECT SOURCE FOR 32-0091, AND 32-0092.

ATTACHED IS A COPY OF THE ORIGINAL PARAGRAPH FROM THE 1922 DECREE AND A COPY OF THE JUDGEMENT CORRECTING THE CLERICAL ERROR.

VOID

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:
   a. Decree No. 32-0067 Decreed to Wood Livestock Co.
   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
   dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority September 19, 1882
5. Water is used for the following purpose:
   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | SE | NE | 24 | 10N | 29 | Clark | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 30E | 19 | | | | | | | 40 | | | 40 | 40 | 40 | | | | | 160 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres 160

9. Describe any other water rights used for the same purpose as described above _____

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0090 Decreed to C. B. Watts
      in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
      dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 10, 1886
5. Water is used for the following purpose:
   amount 1.6 cfs for Irrigation purposes from April 1 to Nov. 1
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | NW | NW | 32 | 10N | 30E | Clark | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 30E | 32 | | | | | | | | 40 | 40 | | | | | 40 | 40 | | 160 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres 160

9. Describe any other water rights used for the same purpose as described above _____

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
NO If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0093 Decreed to Edward M. Kaufman
      in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
      dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 10, 1886
5. Water is used for the following purpose:
   amount 1.6 cfs for Irrigation purposes from April 1 to Nov. 1
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | SW | SW | 29 | 10N | 30E | Clark | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 30E | 29 | | | | | | | | | | 40 | 40 | 40 | | | | | 120 |
| | | 30 | | | | | | | | | | | | | 40 | | | | 40 |
| | | 32 | | | | | 40 | 40 | | | | | | | | | | | 80 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres 240

9. Describe any other water rights used for the same purpose as described above _____

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
NO If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 32-0068 Decreed to Wood Livestock Co.
   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
   dated September 6, 1922 in 9th District Court county of Fremont

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Birch Creek tributary to Sinks

4. Date or priority May 10, 1887

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | NE | SE | 24 | 10N | 29 | Clark | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 30E | 19 | | | | | | | | | | | | | | | 40 | | 40 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres 40

9. Describe any other water rights used for the same purpose as described above _____

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
NO If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

 Transfer No. _____

# STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES
# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0089 Decreed to C. B. Watts
      in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
      dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 10, 1888
5. Water is used for the following purpose:
   amount 2.5 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 2.5 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | NW | NW | 32 | 10N | 30E | Clark | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 30E | 32 | | | | | | | | 40 | 40 | | | | | 40 | 40 | | 160 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres 160

9. Describe any other water rights used for the same purpose as described above _____

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

 Transfer No. _____

# STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES
# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0069 Decreed to Wood Livestock Co.
      in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
      dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 10, 1888
5. Water is used for the following purpose:
   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | NW | NE | 24 | 10N | 29E | Clark | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 29E | 24 | | | | 40 | | | | | | | | | 40 | 40 | | 40 | 160 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres 160

9. Describe any other water rights used for the same purpose as described above _____

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0092 Decreed to Edward M. Kaufman
   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
   dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 10, 1888
5. Water is used for the following purpose:
   amount 2.5 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 2.5 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | SW | SW | 29 | 10N | 30E | Clark | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 30E | 29 | | | | | | | | | | 40 | 40 | 40 | | | | | 120 |
| | | 30 | | | | | | | | | | | | | 40 | | | | 40 |
| | | 32 | | | | | 40 | 40 | | | | | | | | | | | 80 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres 240

9. Describe any other water rights used for the same purpose as described above _____

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
NO If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0061C Decreed to Jerome F. Reno
      in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
      dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 256 and 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 10, 1888
5. Water is used for the following purpose:
   amount .4 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right .4 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | NE | SW | 11 | 10N | 29E | Clark | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 29E | 11 | | | | | | | | | | | | | | | | | 40 |
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| | | | | | | | | | | | | | | | | | | | |

Total acres 40

9. Describe any other water rights used for the same purpose as described above _____

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0091 Decreed to Edward M. Kaufman
   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
   dated September 6, 1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority May 1, 1901
5. Water is used for the following purpose:
   amount .5 cfs (cfs/ac-ft) for Irrigation purposes from April 1 to Nov. 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right .5 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | SW | SW | 29 | 10N | 30E | Clark | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 30E | 29 | | | | | | | | | | 40 | 40 | 40 | | | | | 120 |
| | | 30 | | | | | | | | | | | | | 40 | | | | 40 |
| | | 32 | | | | | 40 | 40 | | | | | | | | | | | 80 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres 240

9. Describe any other water rights used for the same purpose as described above _____

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
NO If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

Form 222a
6/78

HWJ 4-20-89

# STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES
# TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: HAROLD JONES

1. Right number 32-9067 etc Applicant Birch Creek Ranches
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☐ Other _____
4. Check:
   a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
   b. ☒ Description of original point of diversion.
   c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
   a. ☒ All of right.
   b. ☐ Part of right *(NOTE! Part B should be filled in only if part of the right is owned by the applicant).*
   c. ☒ Check description of point(s) of diversion.
   d. ☒ Check description of place of use.
   e. ☐ Check map (shows p.d. and p.u. after transfer). Request
   f. ☒ Check for correct signature, notarization, and fee.
   g. ☐ Check proof of ownership of right &/or land from which water is transferred.
   h. ☒ Check for expansion in use of right. Comments Need list of Corp. officers
   i. ☐ Check for existing water rights from same source, on land water is being transferred to.
      Right number(s) _____
   j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
      If yes, what district? 32-D Birch Creek Send Copy to Watermaster

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on 4-26-89 Received on 5-11-89
2. Is transfer published correctly? ☑ Yes ☐ No
3. Protest received? ☑ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____
4. By _____ Date _____

N.O.P. 5-22-89 - 7-3-89

* *All uses within Watermaster Districts require special conditions.*

Copy Scott Hall

Copy Roberta

# 1990

State of Idaho
DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

October 22, 1990

Mr Breck Barton
Attorney at Law
PO Box 100
Rexburg ID 83440

Dear Breck:

We have made the changes you requested on the enclosed applications. The amended transfer application simply modifies the application on which the administrative hearing was held April 17 and 18 of this year. Two were drafted to facilitate the swapping of water rights between Ted Sorensen and the Wagoners. The other transfer provides water for wildlife as a vehicle for eliminating the bypass requirement on Birch Power's hydropower permits.

If these applications are satisfactory, they will need to be signed and returned with the appropriate fee, along with a copy the Sorensen-Wagoner Agreement. Each application will also need a map attached.

Sincerely,

RONALD D. CARLSON
Eastern Regional Manager

RDC:CW

Enclosures

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

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ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
MICHAEL D. CRAPO
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
MARIE T. FEELEY
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

R. VERN KIDWELL, OF COUNSEL

October 12, 1990

RECEIVED
OCT 1 2 1990
Department of Water Resources
Eastern District Office

Breck H. Barton, Esq.
BARTON & ASSOCIATES
P.O. Box 100
Rexburg, Idaho 83440

Dear Breck:

We are in receipt of a copy of a letter from Mr. Ronald D. Carlson to you dated October 5, 1990, in which he indicates he cannot proceed further without the copies of the applications that he prepared and sent to you. As we understand it, those documents were sent by you to our office and apparently were still in our file awaiting further word. We certainly apologize for any delay that we have occasioned thereby, but have now hand carried the documents to Mr. Carlson's office.

Yours very truly,

Kent W. Foster

#6936.00/srr

Enclosure

October 5, 1990

Mr. Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

Dear Mr. Barton:

In early September, we attempted to put together transfer applications to accomplish certain proposed changes for Birch Creek water rights based upon the information you provided. Apparently, our understanding of your client's agreement with Ted Sorensen was incomplete. We kept no copies of the applications that we prepared and are presently not attempting to prepare new applications. If you wish us to be of further assistance in the preparation of these applications it will be necessary for you to return them to us along with a description of the desired changes.

While we are happy to provide assistance, we want it understood that the department is only attempting to prepare applications that are properly prepared to reflect what the applicant is proposing. When the applications are filed the fact that we assisted in the preparation is not considered. However, we will attempt to advise you of problems we see that potentially can avoid delays or costly problems in the future. In this case we strongly recommend that the application for transfer to provide wildlife water be filed at the same time as the other applications are filed. It will be much easier to accomplish, as part of this package of applications, than it ever will be in the future.

I did not understand all of the concerns expressed in Kent Foster's letter of September 19, 1990. When you return the applications make sure that you clearly identify all of the changes you wish to have made.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Manager

RDC:cw

cc: Kent Foster

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
305 WEST MAIN
REXBURG, IDAHO 83440

BRECK H. BARTON

P.O. BOX 100
(208) 356-4880

September 19, 1990

RECEIVED
SEP 24 1990
Department of Water Resources
Eastern District Office

Mr. Ronald D. Carlson
Eastern Regional Manager
Idaho Department of Water Resources
150 Shoup, Suite 15
Idaho Falls, ID 83402

Dear Ron:

Upon further review of the information prepared by the Department of Water Resources concerning Mac Wagoner and Ted Sorenson and upon speaking with my client as well as Mr. Foster it appears that the letter to be signed by Mr. & Mrs. Wagoner, and prepared by your office, dated September 4, 1990, speaks of an abandonment of the following water rights:

| Right | Amount | Priority Date |
|---|---|---|
| A32-00073 | 0.20 | 5-15-1909 |
| A32-00086 | 0.20 | 5-01-1911 |
| A32-00077 | 0.20 | 5-15-1910 |
| A32-00085 | 0.20 | 5-10-1910 |
| A32-00078 | 0.20 | 5-15-1911 |
| A32-00087 | 0.20 | 5-01-1912 |
| A32-00079 | 0.80 | 5-15-1913 |

As you are aware, the Wagoners are not abandoning those rights. Those rights should be transferred to Ted Sorenson and will be done in the form of a deed.

Wagoners have agreed that they will not pursue their SBRA claims for the 500 inches of water with the date of use in March but the above rights currently pertain to Mac and Betty and are to be transferred to Sorenson upon completion of the agreement.

Your letter indicates that these rights will be "abandoned". I understand that you did not use abandoned in the legal context but rather were simply referencing that the Wagoners would be transferring those rights and then would amend their SBRA claim to reflect such transfer.

In my letter of September 7, 1990, I thought I had made this clear when I indicated that the above rights need to be transferred by

Mac and Betty to Sorenson and that the proposed transfers prepared by your department did not reflect the same.

I understand that you are currently preparing a revised application that will reflect the proposed transfer of the above rights by Wagoner to Sorenson. Thank you for your courtesies.

Very truly yours,

Breck Barton

BB/cb

cc: Kent Foster
Mac Wagoner

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
P.O. BOX 100
REXBURG, IDAHO 83440

Mr. Ronald D. Carlson
Eastern Regional Manager
Idaho Department of Water Resources
150 Shoup, Suite 15
Idaho Falls, ID 83402

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
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TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

R. VERN KIDWELL, OF COUNSEL

September 19, 1990

RECEIVED
SEP 20 1990
Department of Water Resources
Eastern District Office

Breck Barton, Esq.
BARTON & ASSOCIATES, P.A.
305 West Main
Rexburg, Idaho 83440

RE: Wagoner--Birch Creek Ranches Settlement Agreement

Dear Mr. Barton:

As you know, we are in receipt of the original documents furnished to you by Mr. Ronald D. Carlson of IDWR. We have discussed some of these items with you by telephone and have now reviewed them all with Mr. Sorenson. We have taken the liberty of sending a copy of this letter to Mr. Carlson so he will know of the questions we have concerning them. There were five documents; four applications for transfer and one letter to abandon claims. We will try to address each separately:

1. Proposed Letter Abandoning Seven Water Rights--This is contrary to our understanding of the agreement. We understood Birch Creek Ranches would be buying these seven rights from Wagoners for a substantial sum of money and would want them transferred to the same place of use as Right No. 32-00102. We understood Wagoners had only agreed to abandon the claimed 1930 "high water" right shown in their SRBA Claim No. A32-10003.

2. Application for Transfer of Right No. 32-00102--This appears to be missing Rights Nos. A32-00073, A32-00086, A32-00077, A32-00085, A32-00078, A32-00087, and A32-00079. If it is revised to include all these rights, it will then probably need only the Wagoners' signatures. Since this is a new application, we assume the required filing fee will be paid by Wagoners at the time of filing. We trust that there either will be no protests or that they can be resolved with dispatch.

3. Amended Application for Transfer of 14.6 cfs of Rights Nos. 32-0093, 32-0068, 32-0089, 32-0090, 32-0069, 32-0092, 32-0061C, and 32-0091--The amount of Right No. 32-0093 has been changed from 1.6 cfs to 1.5 cfs. This makes the math work just fine because the total to be transferred is 14.6 cfs as it should be and apparently then the extra .1 cfs could be made available for the wildlife watering ponds. Unfortunately, we do not think this is quite correct. The .1 cfs that Birch Creek Ranches has no authority to transfer does not all come from Right No. 32-0093; it is the portion that Bill Simmons always was told was appurtenant to the Blue Dome property from a combination of Rights Nos. 32-0091, 32-0092 and 32-0093. We think this should be shown as it was in the original application for transfer. If the .1 cfs proposed to be deducted from 32-0093 is the same .1 cfs listed in the extra application for transfer prepared for the wildlife watering ponds, our thinking is that it is not relevant to the settlement between Birch Creek Ranches and Wagoners (nor the intervenors in the proceeding under the original application for transfer) and should be dealt with separately from this proceeding.

we do not agree

4. Application for Transfer of 4.0 cfs from Rights Nos. 32-0067 and 32-00090 to Wagoner Lands--We had anticipated that the amendment of the Birch Creek Ranches 1989 application for transfer could be handled in a single document rather than with an amendment to reduce the amount transferred to D&D lands to 14.6 cfs and a separate new application to transfer 4.0 cfs to the Wagoner lands. We probably do not fully understand the reasons IDWR approached it this way, but it looks like it may require additional filing fees and we wonder if it will not confuse potential protestants and unduly prolong the closing of the Birch Creek Ranches--Wagoner settlement agreement.

I do not understand this

5. Application for Transfer of .1 cfs for the Watering Ponds--This one at first had us totally confused. We were unaware of the existence of a Right No. 32-00813. After visiting with Eric Verner, it appears that this may have been a typo and 32-0093 may have been intended; at least that is how Part 2 of the application makes it appear. We have already partly addressed this issue under number 3 above, and as we have indicated, our client is not anxious to mix these two matters. We would prefer to treat the wildlife watering ponds matter separately.

we can probably make this work as a package

If handled separately they have some new and potentially more complicated problems

We have already prepared and sent to you drafts of proposed Quitclaim Deeds which will need to be executed by each of the parties and recorded, as well as proposed Assignments of the SRBA claims which we think should be signed, exchanged and filed with IDWR. It may be well to have IDWR review those documents also to see if anyone has any concerns about the way they have been prepared, so we have enclosed copies with the copy of this letter to Mr. Carlson. Considering what was agreed to between the parties with respect to the irrigation season for Rights Nos. 32-0067 and a part of 32-0090 which will be transferred to Wagoners' lands, it may be desirable to file amended SRBA claims as well. We solicit your and IDWR's thoughts on this item. We will look forward to hearing from you.

Yours very truly,

Kent

Kent W. Foster

#6936.00/srr

cc: Mr. Ronald D. Carlson
Mr. Ted S. Sorenson

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
P. O. BOX 50130
IDAHO FALLS, IDAHO 83405

POCATELLO, ID
PM
19 SEP
1990

MAIL HANDLING ANNEX
SERVING
WITH PRI[illegible]

Mr. Ronald D. Carlson
IDAHO DEPARTMENT OF WATER RESOURCES
150 Shoup Avenue, #15
Idaho Falls, Idaho 83402

RECEIVED
SEP 10 1990
Department of Water Resources
Eastern District Office

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
305 WEST MAIN
REXBURG, IDAHO 83440

BRECK H. BARTON
P.O. BOX 100
(208) 356-4880

September 7, 1990

Mr. Ronald D. Carlson
Department of Water Resources
150 Shoup Avenue, Suite 15
Idaho Falls, ID 83402

Dear Ron:

I received your letter and information of September 4, 1990. It appears that the application for transfer to be executed by Mac and Betty Wagoner may not have included the following water rights as referenced in Page 3 of the Memorandum Agreement:

Right #0073 CFS.2 priority of 05/15/1909
Right #0085 CFS.2 priority of 05/10/1910
Right #0077 CFS.2 priority of 05/15/1910
Right #0086 CFS.2 priority of 05/01/1911
Right #0078 CFS.2 priority of 05/15/1911
Right #0087 CFS.2 priority of 05/01/1912
Right #0079 CFS.8 priority of 05/15/1913

If the application is complete, we will have our clients execute it and return it to you. If it does not reflect the above transfer of water rights to Mr. Sorenson we would request that an additional application be prepared or that the initial application be completed so that it may be signed and filed with the department.

As a final note, I have made one amendment on the abandonment of the SRBA claims to reflect that the rights will be abandoned and the claims withdrawn pending completion of the conditions of the Memorandum Agreement, which conditions include the pending transfers.

Thank you for your courtesies and all your help. We appreciate it very much.

Very truly yours,

Breck Barton

BB/cb

cc: Wagoner
Kent Foster

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
305 WEST MAIN
REXBURG, IDAHO 83440

BRECK H. BARTON

P.O. BOX 100
(208) 356-4880

RECEIVED
SEP 10 1990
Department of Water Resources
Eastern District Office

September 6, 1990

Kent Foster
P.O. Box 50130
Idaho Falls, ID 83405-0130

RE: Sorensen/Wagoner

Dear Kent:

I enclose an application for transfer of water right as prepared by the IDWR pursuant to the memorandum agreement entered into between Ted Sorensen and Mac Wagoner. You will note that the name of the applicant is not complete. Would you please contact your client and determine if the applicant will be Birch Creek Ranches, Inc. or Ted Sorensen and then fill in the appropriate name of the applicant.

I also enclose an amended application for transfer of water right as prepared by the IDWR. The amended application for transfer I presume seeks to transfer the water that Mac Wagoner will be giving Ted as opposed to the water Ted will be giving Mac Wagoner. I believe the amended application for transfer probably relates to the initial application that brought about the protests and the ultimate resolution of Mr. Sorensen's and Mr. WAgoner's differences.

I also enclose a copy of a letter received from the IDWR; a letter from the Wagoners indicating that they are withdrawing their Snake River Adjudication Claims; a copy of the proposed transfer from Mac and Betty to Ted; and a copy of Ted's application for transfer of water right that is currently pending to reflect that deletion of the 5 cfs bypass from his permit.

I believe that the application for transfer of water right to be signed by Mac and Betty Wagoner is not complete as it does not reflect right numbers 073, 085, 077, 086, 078, 087, and 079. I've asked Mr. Carlson to prepare an additional application for transfer reflecting those additional rights as referenced on page three of the memorandum agreement.

Will you please have Mr. Sorensen execute the applications and then have them filed with the Department. I will do the same for the

Wagoners. Hopefully the process will be smooth and will not result in any hearings on the proposed transfers. Thank you for your courtesy

Very truly yours,

Breck Barton

BB/djf

cc: Mac & Betty Wagoner
Ron Carlson

Enclosures

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
P.O. BOX 100
REXBURG, IDAHO 83440

Ron Carlson
Idaho Department of Water Resources
150 Shoup Avenue, Suite 115
Idaho Falls, ID 83402

September 4, 1990

Mr. Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

Dear Mr. Barton:

I have enclosed three applications for transfer, one application for amendment of a Birch Power's pending application for transfer. I have also enclosed a letter for the Wagoner's to sign, to initiate withdrawal of Claims A32-00073, A32-00086, A32-00077, A32-00085, A32-00078, A32-00087 and A32-00079. These have, all with one exception, been prepared to facilitate the implementation of the agreement between the Sorensen's and Wagoner's. The exception represents the vehicle for Sorensen to get the 5.00 cfs bypass requirement removed from his permit. We have prepared a transfer which will take 0.10 cfs from right 31-00093 and change it to wildlife uses. I have included this because it seems important that all of the pieces be on the table at one time for everybody to see. The Sorensen's will need to sign and return, with the indicated filing fees, two transfer applications and one amendment. The Wagoner's will need to sign and return with the application fee, one application for transfer, and the enclosed letter. I hope that this approach will be effective in resolving the disputes on Birch Creek.

If you have any questions about the enclosed materials, please give me a call.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Manager

RDC:cw

Enclosures

April 26, 1990

Mr. Kent Foster
Attorney at Law
P.O. Box 50130
Idaho Falls, ID 83405

Dear Kent:

Please find enclosed a draft order for interim delivery of the "Simmons' rights" on Birch Creek.

If you have comments, please provide them to Norm Young by May 4, 1990.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:CW

Enclosure

cc: Don Shenton w/Order

George Peterson picked up his copy while in the Office.

April 26, 1990

Mr. Alan Barber
Attorney at Law
P.O. Box 51718
Idaho Falls, ID 83405

Dear Mr. Barber:

Please find enclosed a draft order for interim delivery of the "Simmons' rights" on Birch Creek.

If you have comments, please provide them to Norm Young by May 4, 1990.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:CW

Enclosure

cc: Don Shenton w/Order

April 26, 1990

Mr. Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

Dear Mr. Barton:

Please find enclosed a draft order for interim delivery of the "Simmons' rights" on Birch Creek.

If you have comments, please provide them to Norm Young by May 4, 1990.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:CW

Enclosure

cc: Don Shenton w/Order

April 26, 1990

Mr. Jerry Rigby
Attorney at Law
P.O. Box 250
Rexburg, ID 83440

Dear Mr. Rigby:

Please find enclosed a draft order for interim delivery of the "Simmons' rights" on Birch Creek.

If you have comments, please provide them to Norm Young by May 4, 1990.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:CW

Enclosure

cc: Don Shenton w/Order

cc. - Ron Carlson

RECEIVED
APR 23 1990
Department of Water Resources
Eastern District Office

**MEMORANDUM**

TO: File 32-0061

FROM: ncy

RE: Hearing April 17 and 18, 1990

DATE: April 19, 1990

The exhibits and hearing notes were retained in Eastern Region. Briefs are due from protestant/intervenors on May 14, 1990 and a response brief from the applicant is due within two weeks after receipt of these briefs. Ron Carlson will prepare a draft proposed decision and forward it to me after receipt of the briefs.

Ron Carlson will be drafting and distributing for review of the parties an order providing for interim delivery based upon the department's proposed decision issued last summer.

Ron Carlson —
FYI
ncy

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

RECEIVED
APR 16 1990
Department of Water Resources
Eastern District Office

April 12, 1990

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO
P. O. Box 50130
Idaho Falls, ID 83405

Dear Mr. Foster:

RE: Application for Transfer Nos. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068, and 32-0089
Birch Creek Ranches, Inc.

On April 9, 1990, the department received the request for the taking of stenographic notes by a court reporter. This privilege is allowed under Rule 9,21 of the Rules and Regulations of Practice and Procedure. Note that the rule also states that the party requesting the report will bear the expense of the court reporter and provide the department a copy of the transcript fee of charge.

Sincerely,

L. GLEN SAXTON
Chief, Water Allocation Bureau

LGS:rf

c: Breck Barton, Esq.
George Peterson, Esq.
John D. Hansen, Esq.
Jim DeMordaunt
Jerry Rigby, Esq.
Alan E. Barber, Esq.
Mac and Betty Wagoner
H. Margery Bare
Estate of Ben Wilding
Eastern Region

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093 32-0068 and 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | SUBPOENA |

THE STATE OF IDAHO TO: RON CARLSON

YOU ARE HEREBY COMMANDED to appear before the Director of the Department of Water Resources at 150 Shoup Ave., Idaho Falls, Idaho, on the 17&18th day of April 1990, at 9:30 o'clock a.m. as a witness in the above entitled matter.

You are further commanded to bring with you the following items and documents:

DATED this 9th day of April, 1990.

By order of the Director.

R. KEITH HIGGINSON, Director

By R. Keith Higginson
Title

May 17, 1977

Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Gentlemen:

It has recently come to our attention, that certain of the water rights listed in the Birch Creek Decree (that is; the decree entered in the case of Agnes B. Reno, et al vs. J. R. Richards, et al, dated September 6, 1922, in the Ninth Judicial District Court of the State of Idaho, in and for the County of Fremont) have not, to our knowledge, ever been used on the lands to which the rights were made appurtenant under the decree, but rather, to our knowledge, have always been used in the manner set forth in this letter. It is our intention by this letter to explain how the water has been used, to release any claims which we may have on the specific water rights mentioned herein, which have been used on the others' property, and to consent to any formal transfer of such rights by the other so that the records will conform to the actual practice.

The first such right has been assigned Right No. 32-0088. The right was decreed to Frank C. and Jesse Worthing, in the amount of 1 cubic feet per second, with a priority date of July 29, 1907, and was decreed to land now owned by William T. and Theola Simmons. The decree indicates that this water right is from Pass Creek, a tributary of said Birch Creek. To the knowledge of the undersigned, this water has never been used in the manner described in the decree; but, in fact, all of the waters of Pass Creek have been used on land owned by Clifton and Blanche Waggoner. The undersigned, William T. and Theola Simmons hereby release any claim which they may have in and to said right, and hereby consent to the formal transfer by the Waggoners or their heirs, assigns or successors in interest of said water right to their lands at any time they might desire to do so.

Also, under said decree, certain portions of the water rights assigned No.s 32-0093, 32-0092, and 32-0091, are shown as being appurtenant to certain acres of land now owned by the undersigned, Clifton and Blanche Waggoner. To the knowledge of the undersigned, these rights have never been used on the lands now owned by Waggoners, and have always been used on lands now owned by William T. and Theola Simmons. The undersigned, Clifton Waggoner and Blanche Waggoner hereby release any claims in or to

the above numbered rights which they may now have by virtue of said decree, and hereby consent to the formal transfer by William T. and Theola Simmons, their heirs, assigns or successors in interest, of all or any portion of said water rights.

In Witness Whereof, we have hereunto set our hands and seals this 14th day of ~~May~~ June 1977.

William T. Simmons
William T. Simmons

Clifton Waggoner
Clifton Waggoner

Theola Simmons
Theola Simmons

Blanche Waggoner
Blanche Waggoner

STATE OF IDAHO )
County of Bonneville ) ss.

On this 14th day of ~~May~~ June 1977, before me, the undersigned, a Notary Public in and for said state, personally appeared William T. Simmons and Theola Simmons, his wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

Robert M. Saunders
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 3/10/79

(seal)

STATE OF IDAHO )
County of Bonneville ) ss.

On this 28th day of ~~May~~ June 1977, before me, the undersigned, a Notary Public in and for said state, personally appeared Clifton Waggoner and Blanche Waggoner, his wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

Robert M. Saunders
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 3/10/79

(seal)

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Kent Foster
Atty at Law
P.O Box 50130
Idaho Falls, Id 83405

4. Article Number

0367

Type of Service:

☐ Registered ☐ Insured
☑ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature – Addressee

X

6. Signature – Agent

X M. Southwick

7. Date of Delivery

FEB 1 1 1986

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

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Print your name, address, and ZIP Code in the space below.
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- Endorse article "Return Receipt Requested" adjacent to number.

POCATELLO ID 832
PM
23 FEB
1990




PENALTY FOR PRIVATE USE, $300

RETURN TO

RECEIVED
FEB 2 6 1990

Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

it your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this from being returned to you. The return receipt fee will provide you the name of the person elivered to and the date of delivery. For additional fees the following services are available. Consult ostmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Ted Sorensen
550 Linden
Idaho Falls, Id. 83401

4. Article Number

0368

Type of Service:

☐ Registered ☐ Insured
☐ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature – Addressee

X Melissa E K

6. Signature – Agent

X

7. Date of Delivery

FEB 27 1990

8. Addressee's Address *(ONLY if requested and fee paid)*

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U.S.MAIL

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Jerry Rigby
Atty at Law
P.O. Box 250
Rexburg, Id 83440

4. Article Number

0369

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature – Addressee

X

6. Signature – Agent

X

7. Date of Delivery

2/28/90

8. Addressee's Address *(ONLY if requested and fee paid)*

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U.S.MAIL

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MAR 1 - 1990

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

John D Hansen
Atty at Law
P.O Box 51718
Idaho Falls, Id 83405

4. Article Number

0370

Type of Service:

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

FEB 27 1990

8. Addressee's Address *(ONLY if requested and fee paid)*

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POCATELLO, ID 832
PM
27 FEB
'99




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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

George Peterson
Atty at Law
488 "E" Street
Idaho Falls, Id 83402

4. Article Number

0371

Type of Service:

☐ Registered ☐ Insured
☑ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

FEB 27 1989

8. Addressee's Address *(ONLY if requested and fee paid)*

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RECEIVED
FEB 28 1990

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Alan E. Bayher
Atty at Law
P.O. Box 51718
Idaho Falls, Id. 83405

4. Article Number

0372

Type of Service:

☐ Registered ☐ Insured
☑ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery FEB 27 1990

8. Addressee's Address *(ONLY if requested and fee paid)*

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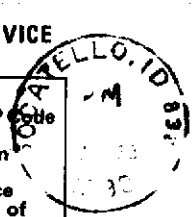
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FEB 2 . 1990
Department of Water Resources
Eastern District Office

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Brock Barton
Attorney at Law
P.O Box 100
Rexburg, Id. 83440

4. Article Number

0323

Type of Service:

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X Connie Baume

6. Signature — Agent

X

7. Date of Delivery

11

8. Addressee's Address *(ONLY if requested and fee paid)*

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MAR 1 - 1990

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Estate of Ben Wilding
Elda, Cleo, Sybile Wilding
Dubois, Id. 83423

4. Article Number

0374

Type of Service:

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature – Addressee

X Cleo Wilding

6. Signature – Agent

X

7. Date of Delivery

8. Addressee's Address (*ONLY if requested and fee paid*)

U.S. POSTAGE ID
FEB 28 1990
USPS

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**OFFICIAL BUSINESS**

**SENDER INSTRUCTIONS**
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- **Endorse article "Return Receipt Requested" adjacent to number.**





PENALTY FOR PRIVATE USE, $300

**RETURN TO**




MAR 1- 1990

Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Jim de Mordaunt
D+D
P.O Box 5
Rexburg, Id. 83440

4. Article Number
0375

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X Jim de Mordaunt

6. Signature — Agent
X

7. Date of Delivery
2-28-89

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

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**OFFICIAL BUSINESS**

**SENDER INSTRUCTIONS**
**Print your name, address, and ZIP Code in the space below.**
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- **Endorse article "Return Receipt Requested" adjacent to number.**

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PENALTY FOR PRIVATE USE, $300

RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

RECEIVED
MAR 1 - 1990

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Mack Betty Wagoner
P.O Box 296
Dubois, Id. 83423

4. Article Number
0376

Type of Service:

☐ Registered ☐ Insured
☑ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X Betty Wagoner

6. Signature — Agent
X

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

DUBOIS
FEB 28 1990
IDAHO

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

**SENDER INSTRUCTIONS**
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- Endorse article "Return Receipt Requested" adjacent to number.

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PENALTY FOR PRIVATE USE, $300

Print Sender's name, address, and ZIP Code in the space below.

RETURN TO

RECEIVED

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
~~150 SHOUP AVE.~~ #15
IDAHO FALLS, IDAHO 83402

MAR 1 - 1990

Department of Water Resources
Eastern District Office

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

N. Margery Bare
P.O Box 72
Dubois, Id 83423

4. Article Number

0377

Type of Service:

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X N. Margery Bare

6. Signature — Agent

X

7. Date of Delivery

8. Addressee's Address (*ONLY if requested and fee paid*)

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PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

RECEIVED

MAR 1- 1990

Department of Water Resources
Eastern District Office

*STATE OF IDAHO*
*DEPARTMENT OF WATER RESOURCES*
Eastern District Office
150 Shoup — Suite 15
Idaho Falls, Idaho 83402

- Jerry Rigby 356-3633
- Buck Barton 356-4880
- George Peterson 3-4650
- Alex Barber 3-5171
- John Hansen 3-5171
- Kent Foster 3-0620

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Indicate type of mail
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☐ Insured
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Check appropriate block for Registered Mail:
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Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

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IDAHO FALLS, ID EAGLE ROCK ANNEX FEB 26 1990 USPS

| Number of Article | Name of Addressee, Street, and Post-Office Address | Postage | Fee | Handling Charge | Act. Value (If Regis.) | Insured Value | Due Sender If C.O.D. | R. R. Fee | S. D. Fee | S. H. Fee | Rest. Del. Fee / Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 0367 | Kent Foster PO Box 50130 ID | .25 | .85 | | | | | .90 | | | Birch ck. |
| 0368 | Ted Sorensen 550 Linden ID | | | | | | | | | | |
| 0369 | Jerry Rigby PO Box 250 Rexburg | | | | | | | | | | |
| 0370 | John Hansen PO Box 51718 ID | | | | | | | | | | |
| 0371 | George Peterson 485 E St ID | | | | | | | | | | |
| 0372 | Alan Barber PO Box 51718 ID. | | | | | | | | | | |
| 0373 | Brick Barton PO Box 100 Rexburg | | | | | | | | | | |
| 0374 | Ben Wilding Estate Dubois, Id | | | | | | | | | | |
| 0375 | Jim DeMordaunt PO Box 5 Rexburg | | | | | | | | | | |
| 0376 | Mac & Betty Agnew PO Box 196 Dubois | | | | | | | | | | |
| 0377 | H Margery Bare PO Box 72 Dubois | | | | | | | | | | |
| | | 11 @ 4¢ ea. | | | | | | | | | |
| | Don Shenton P.O Box 33 Dubois (not certified) | | | | | | | | | | |

| Total Number of Pieces Listed by Sender | Total Number of Pieces Received at Post Office | POSTMASTER, PER (Name of receiving employee) |
|---|---|---|
| 11 | Eleven | [signature] |

The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for nonnegotiable documents under Express Mail document reconstruction insurance is $50,000 per piece subject to a limit of $500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is $500. The maximum indemnity payable is $25,000 for Registered Mail, $400 for COD and $400 for Insured Mail. Special handling charges apply only to Third- and Fourth-Class parcels. Special delivery service also includes special handling service.

PS Form 3877, May 1985

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

☆ U.S. G.P.O. 1985-478-804

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | RESCHEDULE OF HEARING |

Notice is hereby given that the Department of Water Resources has rescheduled the hearing concerning the above referenced application for transfer for Tuesday, April 17 and Wednesday, April 18, 1990, at 9:00 a.m. in the Second Floor Conference Room 2-A, Idaho State Office Building, 150 Shoup, Idaho Falls, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources as previously indicated in the hearing notice dated September 12, 1989.

Attornies for all parties must inform the Department as to the number of witnesses that will be called and the expected time testimony will require. This information should be sent to this office by April 9, 1990.

Dated this 26th day of February, 1990.

RONALD D. CARLSON
Eastern Regional Supervisor

CERTIFICATE OF MAILING

I, hereby certify that on this 26th day of February 1990, I mailed a true and correct copy by certified mail, postage prepaid, of this Notice of Rescheduled Hearing:

Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

George Peterson
Attorney at Law
485 "E" Street
Idaho Falls, ID 83402

John D. Hansen
Attorney at Law
P.O. Box 51718
Idaho Falls, ID 83405-1718

H. Margery Bare
P.O. Box 72
Dubois, ID 83423

Kent W. Foster
Attorney at Law
Birch Creek Ranches
P.O. Box 50130
Idaho Falls, ID 83405

Jerry R. Rigby
Attorney at Law
P.O. Box 250
Rexburg, ID 83440

Alan E. Barber, Esq.
Attorney at Law
P.O. Box 51718
Idaho Falls, ID 83405-1718

Mac & Betty Wagoner
P.O. Box 296
Dubois, ID 83423

Jim DeMordaunt
D & D
P.O. Box 5
Rexburg, ID 83440

Ted Sorenson
Birch Power
550 Linden
Idaho Falls, ID 83401

Estate of Ben Wilding
Elda Wilding, Cleo Wilding
Sybile Wilding
Dubois, ID 83423

Colleen Wray

COLLEEN WRAY
Adm. Assistant
Department of Water Resources

RECEIVED
FEB 12 1990
Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | NOTICE OF TAKING DEPOSITION DUCES TECUM |

TO: Dr. Charles Brockway, expert witness, and attorney of record, Kent Foster, Esq., P.O. Box 50130, Idaho Falls, ID 83405

NOTICE IS HEREBY GIVEN THAT beginning at 10:30 a.m., on February 21, 1990, at the office of Kent Foster, Idaho First National Bank Building, Idaho Falls, Idaho, the deposition of Dr. Charles Brockway will be taken upon oral examination pursuant to the Idaho Rules of Civil Procedure before a Notary Public and Certified Court Reporter, authorized by law to administer oaths. The oral examination will continue from day to day until completed.

The above named Dr. Charles Brockway, whose deposition is to be taken is hereby notified to appear for this deposition and to bring the following documents and things:

"Documents" means any writing or record of any type including, but not limited to, agreements, correspondence, letters, reports, records and notes:

1. All documents and records which you have or have knowledge of which relate to the claims of Birch Creek Ranches, Inc.

2. All exhibits which Birch Creek Ranches, Inc. intends to introduce at the hearing of this matter.

DATED this 1 day of February, 1990

Breck Barton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Taking Deposition Duces Tecum was served by depositing the same in the U.S. Mail, postage pre-paid thereon, to the following persons:

Kent Foster, Esq.
P.O. Box 50130
Idaho Falls, ID 83405

Jerry Rigby
P.O. Box 250
Rexburg, ID 83440

George Peterson
485 "E" Street
Idaho Falls, ID 83401

John D. Hansen
P.O. Box 51718
Idaho Falls, ID 83405-1718

DATED this 1 day of February, 1990

Breck Barton

# 1989

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | POSTPONEMENT OF HEARING |

Notice is hereby given that the Department of Water Resources has postponed the hearing concerning the above referenced application for transfer until further notice.

Any future hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources as previously indicated in the hearing notice dated September 12, 1989.

Dated this 8th day of December, 1989

HAROLD W. JONES

Water Resource Supervisor

CERTIFICATE OF MAILING

I, hereby certify that on this 8th day of December, 1989, I mailed a true and correct copy, postage prepaid, of this Postponement of Hearing.

Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

George Peterson
Attorney at Law
485 "E" Street
Idaho Falls, ID 83402

John D. Hansen
Attorney at Law
P.O. Box 51718
Idaho Falls, ID 83405-1718

H. Margery Bare
P.O. Box 72
Dubois, ID 83423

Kent W. Foster
Attorney at Law
Birch Creek Ranches
P.O. Box 50130

Alan E. Barber, Esq.
Attorney at Law
P.O. Box 51718
Idaho Falls, ID 83405-1718

Mac & Betty Wagoner
P.O. Box 296
Dubois, ID 83423

Jim DeMordaunt
D & D
P.O. Box 5
Rexburg, ID 83440

Ted Sorenson
Birch Power
550 Linden
Idaho Falls, ID 83401

Estate of Ben Wilding
Elda Wilding, Cleo Wilding
Sybile Wilding
Dubois, ID 83423

Rita Bodell
Office Coordinator
Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

RECEIVED
DEC 05 1989
Department of Water Resources
Eastern District Office

IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061c, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC.

---

Protestant Mac Wagoner, through counsel, hereby requests of the Department of Water Resources that the hearing scheduled for December 14, 1989, be postponed and that the same not be reset until such time as Protestant has had the opportunity of deposing the expert witnesses intended to be called by Birch Creek Ranches, Inc. Specifically, Protestant through counsel represents that a Doctor Brockway to be called as an expert witness by Ted Sorenson and/or Birch Creek Ranches, Inc. has not provided a time nor a place where his deposition can be taken and that it is necessary to Protestant to take the deposition of said Doctor Brockway and to have sufficient time thereafter for the deposition to be examined by Jack Barnett, an expert witness in water matters who Protestant intends to call as a witness at said hearing.

Protestant further represents that through counsel several phone calls have been made to Doctor Brockway attempting to arrange a time acceptable to him but that no time has yet been found that is acceptable to Doctor Brockway nor has Protestant been advised by Doctor Brockway or by counsel for Birch Creek Ranches, Inc. of a date when said deposition could be taken.

Any resetting of the hearing prior to the taking of the

deposition of Doctor Brockway, or at least prior to a firm date being scheduled for said deposition, would necessarily be subject to change and therefore it is requested that the hearing be postponed and that the same not be reset until deposition of said Doctor Brockway has been taken.

DATED this 5 day of December, 1989.

Breck Barton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5 day of December, 1989, a true copy of the foregoing was sent, postage prepaid, to the following individuals:

John D. Hansen
P.O. Box 51718
Idaho Falls, ID 83405-1718

George Peterson
485 "E" Street
Idaho Falls, ID 83402

Kent W. Foster
Birch Creek Ranches
P.O. Box 50130
Idaho Falls, ID 83405

Alan E. Barber
P.O. Box 51718
Idaho Falls, ID 83405-1718

Jerry Rigby
P.O. Box 250
Rexburg, ID 83440

Breck Barton

T 32-0069/Etc. - Birch Creek Ranches Inc.

Civil Defense Conference Room, Bonneville County Courthouse
Idaho Falls, Idaho

Tuesday, November 28, 1989 - 10:00 a.m.

Hearing Officer: _____

| Name | Representing | Address |
| --- | --- | --- |

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

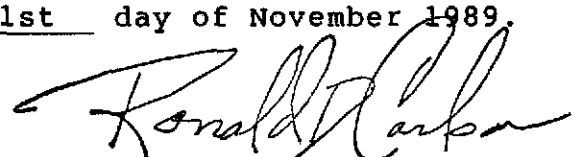
STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | RESCHEDULE OF HEARING |

Notice is hereby given that the Department of Water Resources has rescheduled the hearing concerning the above referenced application for transfer for Thursday, December 14, 1989, at 10:00 a.m. in the Civil Defense Conference Room, Bonneville County Courthouse, Idaho Falls, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources as previously indicated in the hearing notice dated September 12, 1989.

Attornies for all parties must inform the Department as to the number of witnesses that will be called and the expected time testimony will require. This information should be sent to this office by December 4, 1989, in the event a second day of hearing is needed.

Dated this 21st day of November 1989.



RONALD D. CARLSON
Eastern Regional Supervisor

CERTIFICATE OF MAILING

I, hereby certify that on this 21st day of November, 1989, I mailed a true and correct copy, postage prepaid, of this Order Granting Intervention:

Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

George Peterson
Attorney at Law
485 "E" Street
Idaho Falls, ID 83402

John D. Hansen
Attorney at Law
P.O. Box 51718
Idaho Falls, Idaho 83405-1718

H. Margery Bare
P.O. Box 72
Dubois, ID 83423

Kent W. Foster
Attorney at Law
Birch Creek Ranches
P.O. Box 50130
Idaho Falls, ID 83405

Alan E. Barber, Esq.
Attorney at Law
P.O. Box 51718
Idaho Falls, ID 83405-1718

Mac & Betty Wagoner
P.O. Box 296
Dubois, ID 83423

Jim DeMordaunt
D & D
P.O. Box 5
Rexburg, ID 83440

Ted Sorenson
Birch Power
550 Linden
Idaho Falls, ID 83401

Estate of Ben Wilding
Elda Wilding, Cleo Wilding
Sybile Wilding
Dubois, ID 83423

Colleen Wray

COLLEEN WRAY
Adm. Assistant
Department of Water Resources

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
305 WEST MAIN
REXBURG, IDAHO 83440

BRECK H. BARTON

P.O. BOX 100
(208) 356-4880

November 17, 1989

RECEIVED
NOV 17 1989
Department of Water Resources
Eastern District Office

Mr. Ron Carlson
Idaho Department of Water Resources
150 Shoup Avenue, Suite 115
Idaho Falls, ID 83402

RE: IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC.

Dear Ron:

I enclose herewith a request for a brief postponement together with a proposed order. My understanding when I visited with Mr. Foster on November 16, 1989, at the deposition of Ted Sorenson, was that Dr. Brockway was scheduled to return on the 16th or 17th of November.

I will attempt to contact Mr. Foster and/or Dr. Brockway this coming week to schedule his deposition. After speaking with Mr. Barnett, our expert witness, I believe that it is important to the Wagoners to have the opportunity of deposing Dr. Brockway and having that deposition made available to their expert, Mr. Barnett, at least three weeks before the hearing is held.

I understand from Mr. Wagoner that he is not using irrigation water at the current time, that he is using water for stock purposes, but that the irrigation water has been turned off. I don't believe that a postponement will cause harm nor inconvenience to any of the parties involved. Thank you for your courtesy.

Very truly yours,

Breck Barton

BB/df

CC: George Peterson
John D. Hansen
Kent W. Foster
Alan E. Barber
Jerry R. Rigby

RECEIVED
NOV 17 1989
Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | MOTION TO POSTPONE HEARING |

COMES NOW Mac and Betty Wagoner, though counsel, and hereby moves for postponement of hearing scheduled in the above matter and represents as follows:

Counsel for Wagoners has been unable to obtain the deposition of Dr. Charles Brockway, intended to be called as an expert witness by petitioner in the above matter. Protestant Wagoner desires to obtain such deposition, and further, intends to call Mr. Jack Barnett as an expert witness to treat and deal with subject matter advanced by Dr. Brockway, and believes it necessary and essential that deposition of Dr. Brockway be taken and provided to Mr. Barnett, with sufficient time to allow Mr. Barnett to analyze said deposition and the contentions of Dr. Brockway and to prepare to refute, where necessary, the same.

Additionally, an order granting petition to intervene was filed November 15, 1989, allowing intervention of D&D Enterprises as well as Elda Wilding, Cleo Wilding, Sybile Wilding, and the Estate of Ben Wilding. It appears that it may be necessary to depose individuals from D&D Enterprises and/or from the Wildings as to certain factual matters regarding dates, times, and places of water usage by said parties.

Counsel does not anticipate difficulty in scheduling the depositions, if necessary, of Wildings and/or D&D Enterprises. However, as to Dr. Brockway, it is the understanding of counsel that he has not been available for deposition since he has been out of the country and has only recently returned or is set to return.

WHEREFORE, Protestants Wagoner, through counsel, request that hearing the above matter be postponed until three weeks after the deposition of Dr. Brockway has been taken and made available to counsel for Protestants Wagoner.

DATED this 17th day of November, 1989.

Breck Barton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Postpone Hearing was served upon those listed below, by mailing said copy in the U.S. Mail, postage pre-paid.

DATED this 17th day of November, 1989.

Breck Barton

George D. Peterson
485 "E" Street
Idaho Falls, ID 83402

John D. Hansen
P.O. Box 51718
Idaho Falls, ID 83405-1718

Jerry R. Rigby
P.O. Box 250
Rexburg, ID 83440

Kent W. Foster
P.O. Box 50130
Idaho Falls, ID 83405

Alan E. Barber, Esq.
P.O. Box 51718
Idaho Falls, ID 83405-1718

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | PROPOSED ORDER TO POSTPONE HEARING |

On motion by counsel for Wagoners, and good cause appearing,

IT IS HEREBY ORDERED that hearing in the above matter be in the same as postponed until _____.

DATED this ____ day of November, 1989.

_____
Ron Carlson

November 15, 1989

Civil Defense Office
ATTN: Lisa
Bonneville County Courthouse
605 N. Capitol
Idaho Falls, ID 83402

Dear Lisa:

This is to confirm the use of the Civil Defense Conference Room, Bonneville County Courthouse, for a water right hearing to be held by this Department beginning at 10:00 a.m., Tuesday, November 28, 1989.

Thank you for your cooperation in this matter.

Very truly yours,

COLLEEN WRAY
Adm. Assistant

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | | |
|---|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER NO. 32-0069/ETC. IN THE NAME OF BIRCH CREEK RANCHES INC. | ) ) ) ) | ORDER GRANTING PETITION TO INTERVENE |

On April 19, 1989, Birch Creek Ranches, Inc. filed Application for Transfer of Water Right Nos. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068, and 32-0089 for 18.7 cfs of water for irrigation purposes within the SE1/4SW1/4, Section 34, Township 9 North, Range 30 East, B.M., Clark County, to be used within the SE1/4SW1/4, NW1/4SE1/4, S1/2SE1/4, Section 12, Township 8 North, Range 31 East; N1/2SW1/4, SE1/4, Section 10, S1/2NW1/4, SW1/4, Section 11, N1/2NW1/4, Section 14, E1/2SE1/4, Section 1, Township 8 North, Range 32 East; E1/2SW1/4, W1/2SE1/4, Section 6, Township 8 North, Range 33 East.

Notice of this application was advertised statewide in the Lewiston Tribune, Lewiston; Times News, Twin Falls; Idaho Statesman, Boise; and Post Register, Idaho Falls, Idaho. On May 22, 1989, the Department received a protest against approval of said application from Blanche Wagoner, Breck Barton, Attorney at Law, in behalf of Mac and Betty Wagoner; and Alan E. Barber, Attorney at Law, in behalf of H. Margery Bare.

A petition to intervene was received on August 25, 1989 from George C. Petersen on behalf of D & D Enterprises. The intervention was granted on September 19, 1989.

On October 10, 1989, an additional request to intervene was received from Jerry R. Rigby, Attorney at Law, in behalf of of Elda Wilding, Cleo Wilding, Sybile Wilding and the Estate of Ben Wilding.

No objection to the intervention has been received.

There appears to be substantial interest by the petitioner in the proceeding and a potential effect on the petitioner by the project proposed by the application.

IT IS ORDERED THAT the Request for Leave to Intervene be GRANTED in accordance with Rule 6,1 of the adopted "rules and Regulations for Practice and Procedure" of the Department of Water Resources.

Dated this 15th day of November, 1989.

RONALD D. CARLSON
Eastern Regional Manager

CERTIFICATE OF MAILING

I, hereby certify that on this 16th day of November, 1989, I mailed a true and correct copy, postage prepaid, of this Order Granting Intervention:

Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

George Peterson
Attorney at Law
485 "E" Street
Idaho Falls, ID 83402

John D. Hansen
Attorney at Law
P.O. Box 51718
Idaho Falls, Idaho 83405-1718

H. Margery Bare
P.O. Box 72
Dubois, ID 83423

Kent W. Foster
Attorney at Law
Birch Creek Ranches
P.O. Box 50130
Idaho Falls, ID 83405

Alan E. Barber, Esq.
Attorney at Law
P.O. Box 51718
Idaho Falls, ID 83405-1718

Mac & Betty Wagoner
P.O. Box 296
Dubois, ID 83423

Jim DeMordaunt
D & D
P.O. Box 5
Rexburg, ID 83440

Ted Sorenson
Birch Power
550 Linden
Idaho Falls, ID 83401

Estate of Ben Wilding
Elda Wilding, Cleo Wilding
Sybile Wilding
Dubois, ID 83423

Colleen Wray

COLLEEN WRAY
Adm. Assistant
Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

RECEIVED
NOV 8 1989
Department of Water Resources
Eastern District Office

IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC.

REQUEST TO PRODUCE

TO: Ted S. Sorenson, and to his attorney of record, Kent Foster, Esq., P.O. Box 50130, Idaho Falls, ID 83405

Mr. Sorenson is hereby requested, pursuant to Rule 34(a), Idaho Rules of Civil Procedure, to make available to Breck Barton of Breck Barton & Associates, P.A., 305 West Main, P.O. Box 100, Rexburg, ID 83440, for the purpose of inspection and photocopying, the following described documents:

Each and every document, record, transcription of the same, whether by video or other electronic transcription device of each and every item, including all data in the possession of Ted S. Sorenson relative to water flows of Birch Creek, amount of water taken at various diversions on Birch Creek, any documents or reports complied by other parties relative to said water flows or diversions, or other record in the possession of Defendant as the same pertains to the matter pending, or which the Defendant has reviewed or intends to review or has relied on or intends to rely on in the formulation of its opinions and conclusions showing or tending to show support or tending to support the defense against the claims of the Plaintiff.

We also request any scientific formulas to be relied upon to determine bed loss or transmission loss, all data relative to transmission loss, water flows in Birch Creek, water diverted from

Birch Creek to any water user for the past five years.

We also request a copy or copies of the articles of Birch Creek Ranches, Inc., copies of the by laws, a copy of the purchase contract between Bill Simmons as "seller" and Birch Creek Ranches, Inc., and/or Ted and Gayle as "buyer", copies of all water permits, licenses, or decree of any and all water rights of Birch Creek Ranches, Inc., copies of all water permits, licenses, or decree of any and all water rights of Ted S. Sorenson, dba Sorenson Engineering, copies of all water flows measured at the power plant, copies of all water flows not used by the power plant but spilled into the Birch Creek channel, copy of FERC license, copy of application for license to the Department of Water Resources, copy of the Department's approval or his license or permit for the power plant, a list of the witnesses that you intend on calling at hearing with their name, address, telephone number, and a brief summary of the their testimony.

DATED this 3 day of November, 1989.

Breck Barton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3 day of November, 1989, a true and correct copy of the foregoing was sent by U.S. Mail, postage prepaid to the following: Mr. Kent Foster, P.O. Box 50130, Idaho Falls, ID 83405.

Breck Barton

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

NOV 8 1989

Department of Water Resources
Eastern District Office

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | NOTICE OF TAKING DEPOSITION DUCES TECUM |

TO: Ted S. Sorenson, and to his attorney of record, Kent Foster, Esq., P.O. Box 50130, Idaho Falls, ID 83405

NOTICE IS HEREBY GIVEN THAT beginning at 2:00 p.m., on November 16, 1989, at the office of Holden, Kidwell, Hahn & Crapo, the deposition of Ted S. Sorenson will be taken upon oral examination pursuant to the Idaho Rules of Civil Procedure before a Notary Public and Certified Court Reporter, authorized by law to administer oaths. The oral examination will continue from day to day until completed.

The above named Ted S. Sorenson, whose deposition is to be taken is hereby notified to appear for this deposition and to bring the following documents and things:

"Documents" means any writing or record of any type including, but not limited to, agreements, correspondence, letters, reports, records and notes:

1. All documents and records which Defendant has or has knowledge of which relate to the claims in this Complaint.

2. All exhibits which Defendant intends to introduce at the trial of this matter.

DATED this 3 day of November, 1989.

Breck Barton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3 day of October, 1989, I mailed a true and correct copy of the foregoing instrument to the following persons, postage prepaid thereon.

Kent Foster, Esq.
P.O. Box 50130
Idaho Falls, ID 83405

Jerry Rigby
P.O. Box 250
Rexburg, ID 83440

George Peterson
485 "E" Street
Idaho Falls, ID 83401

John D. Hansen
P.O. Box 51718
Idaho Falls, ID 83405-1718

Breck Barton

October 30, 1989

RE: Application for Transfer No. 32-0069/0092/0061C/0091/0089 /0067/0090/0068/0093 BIRCH CREEK RANCHES

Mr. Jerry R. Rigby
Attorney at Law
P.O. Box 250
Rexburg, ID 83440

Dear Mr. Rigby:

Your petition to intervene in the matter of protest against the above referenced application for permit, in behalf of Elda Wilding, Cleo Wilding, Sybile Wilding and the Estate of Ben Wilding, has been received and a copy has been sent to the applicant.

The applicant will be allowed ten (10) days to respond before action is taken to grant or deny leave to intervene.

If the request is granted, intervenors will be allowed to participate in any conference or hearing before the Department, but will not, by this action, become parties to the matter for purposes of court review or appeal.

If this office can be of any further assistance, please contact us.

Very truly yours,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

cc: IDWR - State Office

October 30, 1989

RE: Application for Transfer No. 32-0069/0092/0061C/0091/0089 /0067/0090/0068/0093 BIRCH CREEK RANCHES

Mr. Kent Foster
Attorney at Law
Birch Creek Ranches
P.O. Box 50130
Idaho Falls, ID 83405

Dear Mr. Foster:

Enclosed is a copy of a petition to intervene in the matter of protest filed against the above referenced application for permit.

This petition has been filed in accordance with Department of Water Resources Rules of Practice and Procedure, Rule 6, a copy of which is also enclosed.

Before a decision is made whether or not to grant leave to intervene, you will be allowed ten (10) days from the date of this letter to respond to the petition.

If the request to intervene is granted, the intervenor will be allowed to participate in any conference or hearing before the Department, but will not, by the Department's granting leave to intervene, become party to the matter for the purpose of court review or appeal.

If this office can be of further assistance, please contact us.

Very truly yours,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

Enclosure

RECEIVED
OCT 26 1989
Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | NOTICE OF TAKING DEPOSITION DUCES TECUM |

TO: Ted S. Sorenson, and to his attorney of record, Kent Foster, Esq., P.O. Box 50130, Idaho Falls, ID 83405

NOTICE IS HEREBY GIVEN THAT beginning at 10:00 a.m., on November 1, 1989, at the office of Dick Telford, the deposition of Ted S. Sorenson will be taken upon oral examination pursuant to the Idaho Rules of Civil Procedure before a Notary Public and Certified Court Reporter, authorized by law to administer oaths. The oral examination will continue from day to day until completed.

The above named Ted S. Sorenson, whose deposition is to be taken is hereby notified to appear for this deposition and to bring the following documents and things:

"Documents" means any writing or record of any type including, but not limited to, agreements, correspondence, letters, reports, records and notes:

1. All documents and records which Defendant has or has knowledge of which relate to the claims in this Complaint.

2. All exhibits which Defendant intends to introduce at the trial of this matter.

DATED this 24 day of October, 1989

Breck Barton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24 day of October, 1989, I mailed a true and correct copy of the foregoing instrument to the following persons, postage prepaid thereon.

Kent Foster, Esq.
P.O. Box 50130
Idaho Falls, ID 83405

Breck Barton

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
305 WEST MAIN
REXBURG, IDAHO 83440

BRECK H. BARTON

P.O. BOX 100
(208) 356-4880

October 16, 1989

RECEIVED
OCT 19 1989
Department of Water Resources
Eastern District Office

Mr. Ron Carlson
Idaho Department of Water Resources
150 Shoup Avenue, Suite 115
Idaho Falls, ID 834

RE: Application for Transfer of Water Rights
NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089

Dear Mr. Carlson:

We received a copy of the letter of Jerry Rigby seeking intervention of behalf of his clients, Elda, Cleo, and Sybile Wilding in the above matter. By this letter we inform the department that we do not oppose their application for intervention.

Very truly yours,

Breck Barton

BB/df

cc: Jerry R. Rigby
Kent W. Foster
John D. Hansen
George C. Peterson

RECEIVED
OCT 11 1989
Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | NOTICE OF TAKING DEPOSITION DUCES TECUM |

TO: Ted S. Sorenson, and to his attorney of record, Kent Foster, Esq., P.O. Box 50130, Idaho Falls, ID 83405:

NOTICE IS HEREBY GIVEN THAT beginning at 10:00 o'clock a.m, on October 24, 1989, at the office of Dick Telford, Birch Creek Ranches, Inc., will take the deposition of Ted S. Sorenson upon oral examination pursuant to the Idaho Rules of Civil Procedure before a Notary Public and Certified Court Reporter, authorized by law to administer oaths. The oral examination will continue from day to day until completed.

The above named Ted S. Sorenson, whose deposition is to be taken is hereby notified to appear for this deposition and to bring the following documents and things:

"Documents" means any writing or record of any type including, but not limited to, agreements, correspondence, letters, reports, records and notes:

1. All documents and records which Defendant has or has knowledge of which relate to the claims in this Complaint.

2. All exhibits which Defendant intends to introduce at the trial of this matter.

DATED this 10 day of October, 1989

Breck Barton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10 day of October, 1989, I mailed a true and correct copy of the foregoing instrument to the following persons, postage prepaid thereon.

Kent Foster, Esq.
P.O. Box 50130
Idaho Falls, ID 83405

Breck Barton

RECEIVED
OCT 11 1989
Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | NOTICE OF TAKING DEPOSITION DUCES TECUM |

TO: Dr. Brockway, expert witness, and to the attorney of record, Kent Foster, Esq., P.O. Box 50130, Idaho Falls, ID 83405:

NOTICE IS HEREBY GIVEN THAT beginning at 10:00 o'clock a.m., on October 25, 1989, at the office of Dick Telford, Birch Creek Ranches, Inc., will take the deposition of Dr. Brockway upon oral examination pursuant to the Idaho Rules of Civil Procedure before a Notary Public and Certified Court Reporter, authorized by law to administer oaths. The oral examination will continue from day to day until completed.

The above named Dr. Brockway, whose deposition is to be taken is hereby notified to appear for this deposition and to bring the following documents and things:

"Documents" means any writing or record of any type including, but not limited to, agreements, correspondence, letters, reports, records and notes:

1. All documents and records which Defendant has or has knowledge of which relate to the claims in this Complaint.

2. All exhibits which Defendant intends to introduce at the trial of this matter.

DATED this 10 day of October, 1989

Breck Barton

CERTIFICATE OF SERVICE

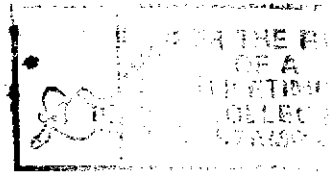
I HEREBY CERTIFY that on this 10 day of October, 1989, I mailed a true and correct copy of the foregoing instrument to the following persons, postage prepaid thereon.

Kent Foster, Esq.
P.O. Box 50130
Idaho Falls, ID 83405

Breck Barton

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
P.O. BOX 100
REXBURG, IDAHO 83440





Department of Water Resources
150 Shoup Avenue, Suite 15
Idaho Falls, ID 83402

LAW OFFICES

RIGBY, THATCHER, ANDRUS,
RIGBY & KAM, *Chartered*

25 NORTH SECOND EAST - P.O. BOX 250 - REXBURG, IDAHO 83440
RAY W. RIGBY - GORDON S. THATCHER - G. RICH ANDRUS
JERRY R. RIGBY - MICHAEL S. KAM
TELEPHONE (208) 356-3633 - TELEPHONE (208) 529-5531 I.F.

October 6, 1989

OCT 10 1989
Department of Water Resources
Eastern District Office

Idaho Department of
Water Resources
1301 North Orchard
Statehouse Mail
Boise, ID 83720

Re: Application for Transfer of Water Rights
Numbers 32-0069, 32-0092, 32-0061C, 32-0091, 32-0089,
32-0067, 32-0090, 32-0068, and 32-0093

Dear Sirs:

This firm represents Elda Wilding, Cleo Wilding, Sybile Wilding, and the Estate of Ben Wilding, who have recently contacted me concerning their recent notification of the pending above entitled application. The Wildings were unaware of the application until they received a copy of the proposed Memorandum Decision and Order by the Department.

The Wilding property and water rights are extremely affected by the outcome of the application and desire to oppose the application. Wildings have asked that the Department of Water Resources consider this letter as an application to intervene in the formal hearing and further that the Wildings be allowed to appear individually and file their own responsive pleadings, with all the same authorities and rights as if the Wildings had timely made a filing prior to the informal hearing which lead to the proposed Memorandum Decision and Order.

Furthermore, upon the granting of the request of Wildings to intervene and participate in the anticipated upcoming formal hearing, Wildings request that they be given a reasonable period of time to prepare, file appropriate pleadings, and interview pertinent witnesses for the anticipated formal hearing.

Your immediate consideration and response to the Wildings' request, as heretofore detailed, will be most sincerely appreciated.

Sincerely yours,

Jerry R. Rigby

JRR:sb
3534E
cc: Idaho Department of Water Resources
(Idaho Falls)
Kent W. Foster, Esq.
John D. Hansen, Esq.
Breck H. Barton, Esq.
George C. Petersen, Esq.

RECEIVED
OCT - 4 1989
Department of Water Resources
Eastern District Office

**BEFORE THE DEPARTMENT OF WATER RESOURCES**
**OF THE**
**STATE OF IDAHO**

| | |
|---|---|
| **IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC.** | **REQUEST TO PRODUCE** |

TO: Ted S. Sorenson and Gayle Sorenson, and to their attorney of record, Kent Foster, Esq., P.O. Box 50130, Idaho Falls, ID 83405:

The above are hereby requested, pursuant to Rule 34(a), Idaho Rules of Civil Procedure, to make available to Breck Barton of Breck Barton & Associates, P.A., 305 West Main, P.O. Box 100, Rexburg, ID 83440, for the purpose of inspection and photocopying, the following described documents:

1. A copy of any lease or copy of any draft of any lease, whether signed or unsigned executed or not, between Ted Sorenson and Jim DeMordaunt, D&D Ranches or any other person for the rental of water from Ted Sorenson as the Lessor and Jim DeMordaunt, D&D Ranches or any other person as Lessee.

2. A copy of any contract, memorandum or other agreement of sale between Ted Sorenson as purchaser and Birch Creek Ranches, Inc. as the seller or Bill Simmons as seller providing for the purchase by Sorenson of either the assets or the stock or any real property of Birch Creek Ranches, Inc.

DATED this 3 day of October, 1989.

Breck Barton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3 day of October, 1989, a true and correct copy of the foregoing was sent by U.S. Mail, postage prepaid to the following: Kent Foster, Esq., P.O. Box 50130, Idaho Falls, ID 83405.

Connie Bourne

Connie Bourne

32-0069/etc. - Birch Creek Ranches

Civil Defense Conference Room, Bonneville County Courthouse
Idaho Falls, Idaho

Tuesday, October 3, 1989 - 9:00 a.m.

Hearing Officer: _____

| Name | Representing | Address |
| --- | --- | --- |

OCT - 2 1989
Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | REQUEST TO PRODUCE |

TO: Ted S. Sorenson and Gayle Sorenson, and to their attorney of record, Kent Foster, Esq., P.O. Box 50130, Idaho Falls, ID 83405:

Plaintiff is hereby requested, pursuant to Rule 34(a), Idaho Rules of Civil Procedure, to make available to Breck Barton of Breck Barton & Associates, P.A., 305 West Main, P.O. Box 100, Rexburg, ID 83440, for the purpose of inspection and photocopying, the following described documents:

1. Any copy or copies of contracts with Utah Power and Light for the sale of power.

2. Copy or copies of any lease or prior leases or other written document or documents to lease water to the D&D Ranch or any other water agreement down stream from the power plant.

DATED this 29 day of September, 1989.

Breck Barton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29 day of September, 1989, a true and correct copy of the foregoing was sent by U.S. Mail, postage prepaid to the following: Kent Foster, Esq., P.O. Box 50130, Idaho Falls, ID 83405.

Breck Barton

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
MICHAEL D. CRAPO
JAMES D. HOLMAN
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
G. LANCE NALDER
J. MICHAEL WHEILER
MARIE T. FEELEY
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

R. VERN KIDWELL, OF COUNSEL

September 28, 1989

RECEIVED
SEP 29 1989
Department of Water Resources
Eastern District Office

Mr. Norm Young
IDAHO DEPARTMENT OF
WATER RESOURCES
1301 North Orchard
Statehouse Mail
Boise, Idaho 83720

RE: Application for Transfer of Water Rights Nos. 32-0069, 0092, 0061C, 0091, 0089, 0067, 0090, 0068 and 0093

Dear Mr. Young:

We are writing to confirm the conclusions reached in our recent telephone conference and pursuant to your request to make a formal application for changing the date set for hearing of this matter.

As we understand it, measurements and testing under the direction of Dr. Charles Brockway were to have been performed in late August. Because of scheduling problems of Ron Carlson and Don Shenton, that testing had to be postponed to the 28th and 29th of September.

Dr. Brockway advised us in the telephone conference that he would be unable to complete the necessary analysis of the data from the testing and measurements by the 4th of October and that he would then be in Pakistan until mid-November some time. As I recall, he suggested November 28th as a possible date for the hearing, and I understood you to indicate that date to be acceptable. I also understood that we tentatively scheduled for Tuesday, November 28, 1989 at 9:00 o'clock a.m. and that upon receipt of this formal request you would send out the necessary amended notices.

We have sent everyone, of whose appearance in this matter we are aware, a copy of this letter.

Yours very truly,

Kent W. Foster

#6963.00/srr

cc: Mr. Ron Carlson
Breck Barton, Esq.
George Peterson, Esq.
Jerry Rigby, Esq.
John Hansen, Esq.
Mr. Bill Simmons
Mr. Ted Sorenson

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
305 WEST MAIN
REXBURG, IDAHO 83440

BRECK H. BARTON

P.O. BOX 100
(208) 356-4880

September 27, 1989

RECEIVED
SEP 29 1989
Department of Water Resources
Eastern District Office

Mr. Ronald Carlson
Department of Water Resources
150 Shoup Avenue, Suite 15
Idaho Falls, ID 83402

Re: Birch Creek Ranches, Inc./Wagoner

Dear Mr. Carlson:

I understand from our telephone conversation this week that the hearing initially scheduled in the above matter for the coming week has been postponed. I also understand that the Wildings are seeking to intervene with their counsel, Jerry Rigby. This letter is to advise that we have no objection to the intervention of the Wildings in the above pending application.

I suspicion that with discovery, intervention of the Wildings, and the fact that the water master is now hospitalized, the hearing on this matter may not in fact be rescheduled until some time in November.

As soon as we've completed discovery, I will so advise. Thank you for your courtesies.

Very truly yours,

Breck Barton

BB/df

CC: John D. Hansen
Kent W. Foster
Jerry Rigby
George Peterson

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

George Peterson
485 "E" St.
Idaho Falls, Id.
83402

4. Article Number

0322

Type of Service:

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

SEP 2 8 1988

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986

DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

**SENDER INSTRUCTIONS**
Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RECEIVED
1989

U.S.MAIL

PENALTY FOR PRIVATE USE, $300

RETURN TO

Department of Water Resources
Eastern District Office
Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Jim Demordaunt
P.O Box 5
Kellogg, Id. 83440

4. Article Number
0327

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X Jim P. Mordaunt

6. Signature — Agent
X

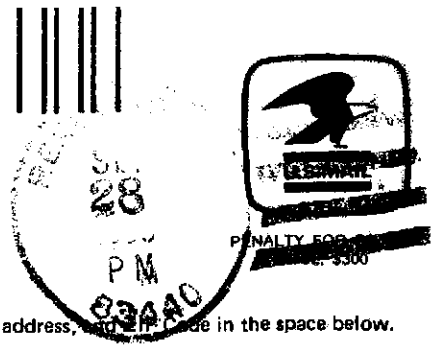
7. Date of Delivery
SEP 28 1989

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

**SENDER INSTRUCTIONS**
**Print your name, address, and ZIP Code in the space below.**
- **Complete items 1, 2, 3, and 4 on the reverse.**
- **Attach to front of article if space permits, otherwise affix to back of article.**
- **Endorse article "Return Receipt Requested" adjacent to number.**




PENALTY FOR [illegible] $300

RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

RECEIVED
SEP 29 1989

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Brick Barton
P.O. Box 100
Redburg, Id. 83440

4. Article Number
0321

Type of Service:

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X

6. Signature — Agent
X

7. Date of Delivery
SEP 28 1989

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

**SENDER INSTRUCTIONS**
**Print your name, address, and ZIP Code in the space below.**
- **Complete items 1, 2, 3, and 4 on the reverse.**
- **Attach to front of article if space permits, otherwise affix to back of article.**
- **Endorse article "Return Receipt Requested" adjacent to number.**

U.S.MAIL

PENALTY FOR PRIVATE USE, $300

**RETURN TO**

Print Sender's name, address, and ZIP Code in the space below.

RECEIVED
SEP 29 1989

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Kent W. Foster
Birch Ck Ranches
P.O Box 50130
Idaho Falls, Id 83405

4. Article Number
2319

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X

6. Signature — Agent
X M. Southwick

7. Date of Delivery
SEP 28 1989

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

**SENDER INSTRUCTIONS**
**Print your name, address, and ZIP Code in the space below.**
- **Complete items 1, 2, 3, and 4 on the reverse.**
- **Attach to front of article if space permits, otherwise affix to back of article.**
- **Endorse article "Return Receipt Requested" adjacent to number.**

U.S.MAIL

PENALTY FOR PRIVATE USE, $300

RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

RECEIVED
SEP 29 1989

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

John D. Hansen
P.O Box 51718
Idaho Falls, Id. 83405

4. Article Number

2323

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

SEP 2 8 1989

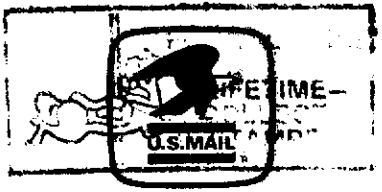
8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

**SENDER INSTRUCTIONS**
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RECEIVED
SEP 29 1989

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EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Mac & Betty Wagoner
P.O. Box 296
Dubois Id. 83423

4. Article Number
0326

Type of Service:

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X Betty Wagoner

6. Signature — Agent
X

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

SEP 28 1989 IDAHO

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**

**OFFICIAL BUSINESS**

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RECEIVED

SEP 29 1989

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

N Margery Barr
PO Box 72
Dubois, Id 83423

4. Article Number
0324

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

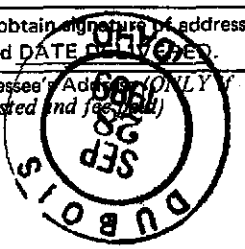
Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X Margery Barr

6. Signature — Agent
X

8. Addressee's Address (ONLY if requested and fee paid)

7. Date of Delivery




PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

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PENALTY FOR PRIVATE USE, $300

**RETURN TO**

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

SEP 1989

Department of Water Resources
Eastern District Office

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Jed Sorensen
550 Linden
Idaho Falls, Id 83401

4. Article Number
0320

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X

6. Signature — Agent
X

7. Date of Delivery
SEP 2 3 1989

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

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POCATELLO, ID 832
PM
28 SEP
1989

Begin an Adventure of Giant Proportions
Collect Stamps!

U.S. POSTAGE

PENALTY FOR PRIVATE USE, $300

RETURN

RECEIVED

SEP 29 1989

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Alan Barber
P.O Box 51718
Idaho Falls, Id 83405

4. Article Number

0325

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

9-28-89

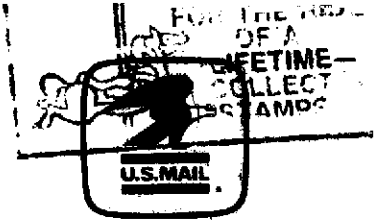
8. Addressee's Address *(ONLY if requested and fee paid)*

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**OFFICIAL BUSINESS**

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POCATELLO, ID
P M
SEP
1989




PENALTY FOR PRIVATE USE, $300

RETURN TO

RECEIVED
SEP 20 1989
Department of Water Resources
Eastern District Office

Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

NAME AND ADDRESS OF SENDER

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Indicate type of mail
☐ Registered
☐ Insured
☐ COD
☒ Certified ☐ Express Mail

Check appropriate block for Registered Mail:
☐ With Postal Insurance
☐ Without Postal Insurance

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

*POSTMARK AND DATE OF RECEIPT*

| Line | Number of Article | Name of Addressee, Street, and Post-Office Address | Postage | Fee | Handling Charge | Act. Value (If Regis.) | Insured Value | Due Sender If C.O.D. | R. R. Fee | S. D. Fee | S. H. Fee | Rest. Del. Fee / Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 0319 | Kent Foster PO Box 5020 Dr | .25 | .85 | | | | | .10 | | | 32-0069/eta |
| 2 | 0320 | Ted Swenson 5 D Linden Dr | | | | | | | | | | |
| 3 | 0321 | Chuck Barton PO Box 100 Lyle | | | | | | | | | | |
| 4 | 0322 | Gary Peterson 485E. 27. | | | | | | | | | | |
| 5 | 0323 | John Duncan PO Box 5178 Dr. | | | | | | | | | | |
| 6 | 0324 | Al Mangum Lane PO Box 22 Dubois | | | | | | | | | | |
| 7 | 0325 | Alan & Barbara PO Box 5178 Dr | | | | | | | | | | |
| 8 | 0326 | Mark & Betty Wagoner PO Box 296 Dubois | | | | | | | | | | |
| 9 | 0327 | Jim DeMerchant PO Box 5 Lyle | | | | | | | | | | |
| 10 | | | | | | | | | | | | |
| 11 | | | | | 9@ $2.00 = $18.00 | | | | | | | |
| 12 | | | | | | | | | | | | |
| 13 | | | | | | | | | | | | |
| 14 | | | | | | | | | | | | |
| 15 | | | | | | | | | | | | |

IDAHO FALLS IDAHO SEP 27 1989 USPS

FOR REGISTERED, INSURED, C.O.D., CERTIFIED, AND EXPRESS MAIL

PS Form 3877, May 1985

| Total Number of Pieces Listed by Sender | Total Number of Pieces Received at Post Office | POSTMASTER, PER *(Name of receiving employee)* |
|---|---|---|
| 9 | 9 | SW |

The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for nonnegotiable documents under Express Mail document reconstruction insurance is $50,000 per piece subject to a limit of $500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is $500. The maximum indemnity payable is $25,000 for Registered Mail, $400 for COD and $400 for Insured Mail. Special handling charges apply only to Third- and Fourth-Class parcels. Special delivery service also includes special handling service.

FORM MUST BE REMITTED BY POSTMASTER

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | RESCHEDULE OF HEARING |

Notice is hereby given that the Department of Water Resources has rescheduled the hearing concerning the above referenced application for transfer for Tuesday, November 28, 1989, at 10:00 a.m. in the Civil Defense Conference Room, Bonneville County Courthouse, Idaho Falls, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources as previously indicated in the hearing notice dated September 12, 1989.

Dated this 27th day of September 1989.

Ronald D. Carlson

RONALD D. CARLSON
Eastern Regional Supervisor

CERTIFICATE OF MAILING

I, hereby certify that on this 27th day of September, 1989, I mailed a true and correct copy, by certified mail, postage prepaid, of this Notice to Reschedule a Water Right Hearing:

Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

George Peterson
Attorney at Law
485 "E" Street
Idaho Falls, ID 83402

John D. Hansen
Attorney at Law
P.O. Box 51718
Idaho Falls, Idaho 83405-1718

H. Margery Bare
P.O. Box 72
Dubois, ID 83423

Kent W. Foster
Attorney at Law
Birch Creek Ranches
P.O. Box 50130
Idaho Falls, ID 83405

Alan E. Barber, Esq.
Attorney at Law
P.O. Box 51718
Idaho Falls, ID 83405-1718

Mac & Betty Wagoner
P.O. Box 296
Dubois, ID 83423

Jim DeMordaunt
D & D
P.O. Box 5
Rexburg, ID 83440

Ted Sorenson
Birch Power
550 Linden
Idaho Falls, ID 83401

Colleen Wray

COLLEEN WRAY
Adm. Assistant
Department of Water Resources

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

September 21, 1989

RECEIVED
SEP 25 1989
Department of Water Resources
Eastern District Office

George Petersen, Attorney
Petersen, Moss, Olsen, Meachem & Carr
485 "E" Street
Idaho Falls, ID 83402

Dear Mr. Petersen:

Re: Application for Transfer of Water Right Nos.
32-0069/0092/0061C/0091/0089/0067/0090/0068/0093 - Ted Sorensen

Your letter of August 25, 1989, seeks intervention in the above referenced matter before the Department of Water Resources on behalf of D & D Enterprises, Inc. and expresses their understanding that the right had not been waived to a formal hearing prior to issuance of a decision on this matter. The department concurs with your client's understanding of the right to a formal hearing and a hearing will be set. You will receive notice of the time, date and location for the hearing from IDWR's Idaho Falls office in the near future.

No objections to an intervention by D & D Enterprises, Inc. have been filed by any of the other parties, and it appears that D & D Enterprises, Inc. are directly and substantially affected by the proceedings. Therefore, the attached order allowing intervention has been entered.

Sincerely yours,

Norman C. Young
Administrator

c: IDWR - Eastern Region
Breck Barton
John D. Hansen
Kent W. Foster
Mac and Betty Wagoner
Ted Sorenson
H. Margery Bare
Alan E. Barber, Esq.
Jim DeMourdaunt

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHT NOS. 32-0061C, 32-0067, 32-0068, 32-0069, 32-0089, 32-0090, 32-0091, 32-0092, 32-0093 IN THE NAME OF BIRCH CREEK RANCHES, INC. | ORDER GRANTING REQUEST TO INERVENE |

On August 25, 1989, George C. Petersen, Jr. on behalf of D & D Enterprises, Inc. requested the Idaho Department Water Resources (IDWR) for leave to intervene in the matter of Applications for Transfer of Water Right Nos. 32-0061C, 32-0067, 32-0068, 32-0069, 32-0089, 32-0090, 32-0091, 32-0092, 32-0093 filed in the name of Birch Creek Ranches, Inc.

Ted Sorensen, purchaser of Birch Creek Ranches, Inc. proposes to increase the water supply to his power plant by transferring water rights from Birch Creek Ranches, Inc. Notice of the Application for Transfer was advertised in The Post Register and protested by Margery Bare, Blanche Wagoner and Mac and Betty Wagoner. On June 22, 1989, the Department held a conference to identify the issues and on August 3, 1989, the Department issued a Proposed Memorandum Decision and Order.

The Department has been requested to conduct a formal hearing in this matter. D and D Enterprises, Inc. wishes to be a participant in the hearing proceedings and has requested the department to grant a petition to intervene in this matter.

Copies of the August 25, 1989 letter requesting intervention were forwarded by D and D Enterprises, Inc.'s attorney, George C. Petersen, Jr. to Breck Barton, John D. Hansen, Kent W. Foster, the attorneys representing the other parties involved. No objections to the request have been received, and the petitioners appear to be directly and substantially affected by the proceedings.

IT IS ORDERED THAT the Request for Leave to Intervene be GRANTED in accordance with Rule 6,1 of the adopted "Rules and Regulations for Practice and Procedure" of the Department of Water Resources.

Dated this 19TH day of September, 1989.

NORMAN C. YOUNG, Administrator
Water Management Division

September 15, 1989

Civil Defense Office
ATTN: Lisa
Bonneville County Courthouse
605 N. Capitol
Idaho Falls, ID 83402

Dear Lisa:

This is to confirm the use of the Civil Defense Conference Room, Bonneville County Courthouse, for a water right hearing to be held by this Department beginning at 9:00 a.m., Tuesday, October 3, 1989.

Thank you for your cooperation in this matter.

Very truly yours,

COLLEEN WRAY
Adm. Assistant

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 ar

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent thi card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Alan L. Barker Esq.
atty at Law
P.O. Box 51718
Idaho Falls, Id. 83405

4. Article Number

0317

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X J. Arndt

7. Date of Delivery

SEP 13 1999

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

TATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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he space below.
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Dep[illegible] Resources

U.S.MAIL

PENALTY FOR PRIVATE USE, $300

Eastern District Office

RETURN TO

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

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3. Article Addressed to:

Mac & Betty Wagoner
P.O. Box 296
Dubois, Id. 83423

4. Article Number

0313

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature – Addressee

X Betty Wagoner

6. Signature – Agent

X

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

SEP 13 1989 IDAHO

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

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**OFFICIAL BUSINESS**

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RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

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SEP 14 1989

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

W. Margery Bare
P.O Box 72
Dubois, Id 83423

4. Article Number

0316

Type of Service:

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature – Addressee

X W. Margery Bare

6. Signature – Agent

X

7. Date of Delivery

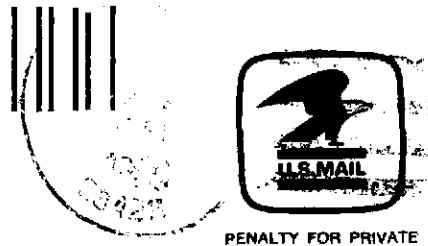
8. Addressee's Address *(ONLY if requested and fee paid)*

DUBOIS IDAHO SEP 13 1988

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

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PENALTY FOR PRIVATE USE, $300

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SEP 14 1989

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EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Jim DeMordaunt
P.O Box 5
Lyburg, Id 83440

4. Article Number
0312

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature – Addressee
X Jim DeMordaunt

6. Signature – Agent
X

7. Date of Delivery
9-13-89

8. Addressee's Address *(ONLY if requested and fee paid)*

1989

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

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U.S.MAIL

PENALTY FOR PRIVATE USE, $300

RETURN TO

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

**3. Article Addressed to:**

John A. Hansen
atty at Law
P.O. Box 51718
Idaho Falls Id 83405

**4. Article Number**

P 314

**Type of Service:**

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD

Always obtain signature of addressee or agent and DATE DELIVERED.

**5. Signature — Addressee**

X

**6. Signature — Agent**

X

**7. Date of Delivery**

SEP 13 1989

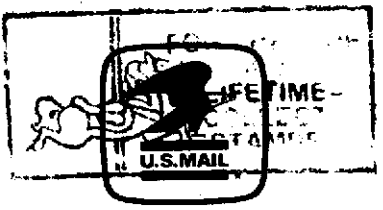
**8. Addressee's Address** *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

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POCATELLO, ID 832
15 SEP
1989




PENALTY FOR PRIVATE USE, $300

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

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2. ☐ Restricted Delivery.

3. Article Addressed to:

Kent Foster
Birch Ck Ranches
P.O. Box 50130
Idaho Falls, Id 83405

4. Article Number

0310

Type of Service:

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD

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X

6. Signature – Agent

X

7. Date of Delivery

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PS Form 3811, Feb. 1986

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Department of Water Resources
Eastern District Office

PENALTY FOR PRIVATE USE, $300

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Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

George Peterson
Atty at Law
485 "E" Street
Idaho Falls, Id. 83402

4. Article Number

0315

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

9/13/89

8. Addressee's Address *(ONLY if requested and fee paid)*

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**UNITED STATES POSTAL SERVICE**
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SEP 14 1989
Department of Water Resources
Eastern District Office
U.S.MAIL
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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

12644

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Breck N Barton, Atty
P.O. Box 100
Kellogg, Id. 83440

4. Article Number
0318

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and **DATE DELIVERED**.

5. Signature — Addressee
X Connie Baune

6. Signature — Agent
X

7. Date of Delivery
SEP 10 '86

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

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- **Endorse article "Return Receipt Requested" adjacent to number.**

U.S.MAIL

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**RETURN TO**

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

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Department of Water Resources
Eastern District Office

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3. Article Addressed to:

Jed Sampson
Birch Tower
550 Linden
Idaho Falls, Ida. 83401

4. Article Number

0311

Type of Service:

- ☐ Registered
- ☑ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD

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5. Signature — Addressee

X

6. Signature — Agent

X Melissa L K

7. Date of Delivery

9-13-89

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986

DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

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- Endorse article "Return Receipt Requested" adjacent to number.

POCATELLO ID
SEP
1989

RECEIVED
SEP 14 1989

FOR THE RIDE OF A LIFETIME— COLLECT STAMPS
U.S. MAIL

PENALTY FOR PRIVATE USE, $300

Department of Water Resources
Eastern District Office

RETURN TO

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

NAME AND ADDRESS OF SENDER

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
~~IDAHO FALLS, IDAHO 83402~~

Indicate type of mail
☐ Registered
☐ Insured
☐ COD
☒ Certified ☐ Express Mail

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|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | ✓0310 | Kent Foster Burgh Ck Ranches Foster PO Box 50130 Id. | .75 | .85 | | | | | .90 | | | T32-0069/etc |
| 2 | ✓0311 | Ted Jameson, 550 London Id | | | | | | | | | | |
| 3 | ✓0312 | Jim DeMordaunt PO Box 5 Leyburg | | | | | | | | | | |
| 4 | ✓0313 | Mack & Betty Wagoner PO Box 296 Dubois | | | | | | | | | | |
| 5 | ✓0314 | John Hansen P.O Box 51718 Id. | | | | | | | | | | |
| 6 | ✓0315 | George Peterson 485 E St Id. | | | | | | | | | | |
| 7 | ✓0316 | H. Margery Bare PO Box 12 Dubois | | | | | | | | | | |
| 8 | ✓0317 | Nan Baker PO Box 51718 Id. | | | | | | | | | | |
| 9 | ✓0318 | Breck Barton P.O Box 100 Leyburg | | | | | | | | | | T-32-0069/etc |
| 10 | | | | | $2.29 = | 19.80 | | | | | | |
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PS Form 3877, May 1985

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☆ U.S. G.P.O. 1985-478-804

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0067, 32-0090, 32-0093, 32-0068 AND 32-0089 IN THE NAME OF BIRCH CREEK RANCHES, INC. | HEARING NOTICE |

Birch Creek Ranches, Inc., Idaho Falls, Idaho filed the above referenced application to transfer the public waters of the State of Idaho. On May 22, 1989, the Department received a protest against approval of said application from Blanche Wagoner, Breck Barton, Attorney at Law, in behalf of Mac and Betty Wagoner; and Alan E. Barber, Attorney at Law, in behalf of H. Margery Bare.

The Department has set the matter of protests for hearing for 9:00 a.m., Tuesday, October 3, 1989, in the Civil Defense Conference Room, Bonneville County Courthouse, Idaho Falls, Idaho. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67 of the Idaho Code and adopted Rules of Practice and procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Date this 12th day of September, 1989.

Ronald D. Carlson

RONALD D. CARLSON
Eastern Regional Manager

CERTIFICATE OF MAILING

I, hereby certify that on this 12th day of September, 1989, I mailed a true and correct copy, postage prepaid, of this Notice of Water Right Hearing:

Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

George Peterson
Attorney at Law
485 "E" Street
Idaho Falls, ID 83402

John D. Hansen
Attorney at Law
P.O. Box 51718
Idaho Falls, Idaho 83405-1718

H. Margery Bare
P.O. Box 72
Dubois, ID 83423

Kent W. Foster
Attorney at Law
Birch Creek Ranches
P.O. Box 50130
Idaho Falls, ID 83405

Alan E. Barber, Esq.
Attorney at Law
P.O. Box 51718
Idaho Falls, ID 83405-1718

Mac & Betty Wagoner
P.O. Box 296
Dubois, ID 83423

Jim DeMordaunt
D & D
P.O. Box 5
Rexburg, ID 83440

Ted Sorenson
Birch Power
550 Linden
Idaho Falls, ID 83401

Colleen Wray

COLLEEN WRAY
Adm. Assistant
Department of Water Resources

PETERSEN, MOSS, OLSEN, MEACHAM & CARR

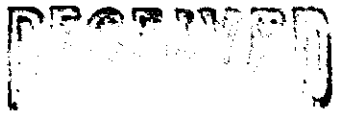
GEORGE C. PETERSEN, JR.
REED L. MOSS
GREGORY P. MEACHAM
WM. CHARLES CARR
EARL BLOWER
SCOTT P. ESKELSON
STEPHEN D. HALL
KARL R. DECKER

ATTORNEYS AT LAW
485 "E" STREET
IDAHO FALLS, IDAHO 83402
(208) 523-4650

DENNIS M. OLSEN
(1930-1985)

Fax No.
(208)524-3391

August 25, 1989



Idaho Department of Water Resources
1301 North Orchard
Statehouse Mail
Boise, ID 83720

RE: Application for Transfer of Water Rights
Numbers 32-0069, 32-0092, 32-0061C, 32-0091, 32-0089, 32-0067, 32-0090, 32-0068, and 32-0093

Gentlemen:

Upon receipt of a copy of the proposed Memorandum Decision and Order and Order Issuing Proposed Memorandum Decision, the subject of the above captioned, together with the responding correspondence of Kent Foster, Esq., Breck Barton, Esq., and John D. Hansen, Esq., all of said material was reviewed with our client, D & D Enterprises, Inc., and following said review the DeMordaunts have asked that the writer respond as follows.

1. The principals of D & D wish to go on record that their understanding was the same as expressed in the letters responding to the proposed Memorandum Decision, et al., of the State, that is, that the meeting and/or hearing held in Idaho Falls on June 22, 1989, was an informal conference only, and that it would in effect have no legal implications on any of the parties attending, and further none of said attending parties, by their presence, had waived or relinquished a right to a formal hearing.

2. D & D, after reviewing a number of problems and complications that might affect our client's water rights, etc., has asked that this writing express their wish to join with the letters of counsel referred to above, that is, that it would be premature to prepare exceptions to the proposed decision based upon the hearing at the informal hearing, and in particular, prior to the holding of a formal hearing.

3. In view of possible complications and conflicts that might develop between the water rights of D & D Enterprises, Inc., and the water rights the subject of the above captioned, D & D has asked that the Department of Water Resources consider this writing as an application to intervene in the formal hearing and further that D & D be allowed to appear individually and file its own responsive pleadings, with all of the same authorities and rights as if D & D had timely made a filing prior to the informal hearing referred to above.

4. Pursuant to the requests of our client, as heretofore detailed, the Department's consideration of D & D's request and the granting of same, ex parte, will be most sincerely appreciated.

5. Further upon the granting of the request of D & D to intervene and participate in the anticipated upcoming formal hearing, D & D request that they be given a reasonable period of time to prepare, file appropriate pleadings, and interview pertinent witnesses for the anticipated formal hearing.

Your immediate consideration and response to the matters the subject of this writing, as heretofore detailed, will be most sincerely appreciated. Best regards.

Very truly yours,

PETERSEN, MOSS, OLSEN,
MEACHAM & CARR

George C. Petersen, Jr.

GCP/kw
cc: Idaho Department of Water Resources (Idaho Falls) /
Breck Barton, Esq.
John D. Hansen, Esq.
Kent W. Foster, Esq.
1974L

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
305 WEST MAIN
REXBURG, IDAHO 83440

BRECK H. BARTON

P.O. BOX 100
(208) 356-4880

August 18, 1989

Idaho Department of Water Resources
150 Shoup Avenue, Suite 15
Idaho Falls, ID 83402

ATTN: Ronald Carlson

RE: Proposed Transfer/Birch Creek Ranches, Inc.

Gentlemen:

Inasmuch as Kent Foster has requested a formal hearing in the above matter, the initial meeting held being an informal conference, we understand that the filing of exceptions to the proposed decision is not applicable nor binding. We await communication from you regarding proposed hearing times.

Very truly yours,

Breck Barton

BB/cb

cc: George Peterson
Kent Foster
John Hansen

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AUG 21 1989
Department of Water Resources
Eastern District Office

LAW OFFICES OF

HANSEN, BEARD, MARTIN & ST. CLAIR

CHARTERED

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POST OFFICE BOX 51718
IDAHO FALLS, IDAHO 83405-1718

AREA CODE 208
TELEPHONE 523-5171
FACSIMILE 529-9732

JOHN D. HANSEN
WINSTON V. BEARD
SIMON S. MARTIN
JOHN G. ST. CLAIR
D. GARY PETERSON*
KEVIN T. SULLIVAN
ALAN E. BARBER*

*ALSO ADMITTED IN UTAH

RECEIVED
AUG 17 1989
Department of Water Resources
Eastern District Office

August 16, 1989

Idaho Department of
Water Resources
1301 North Orchard
Statehouse Mail
Boise, ID 83720

Re: Application for transfer of water rights Nos. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0089, 32-0067, 32-0090, 32-0068, and 32-0093

Gentlemen:

Reference is made to the Proposed Memorandum Decision and Order and the Order Issuing Proposed Memorandum Decision in the above-entitled matter. Given the fact that the meeting held in Idaho Falls on June 22, 1989, was initially intended as an informal conference, preliminary to a formal hearing, this confirms my understanding that if one be needed, and the fact that Kent W. Foster, on behalf of Birch Creek Ranches Inc., has, by letter of August 7, 1989, requested a formal hearing, the time for filing exceptions to the proposed decision is not applicable or binding on parties to the proceedings.

Sincerely,

HANSEN, BEARD, MARTIN & ST. CLAIR, CHARTERED

/s/ JOHN D. HANSEN

John D. Hansen

JDH:njh:89-228
1279i

cc: Idaho Department of Water Resources (Idaho Falls)
Breck Barton, Esq.
Kent W. Foster, Esq.
George Petersen, Esq.

COPY

August 16, 1989

Mr. Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

Dear Mr. Barton:

Last week Don Shenton was in my office and indicated that Ted Sorensen had requested the delivery of water to Birch Creek Ranches as part of an effort to determine specific channel loss numbers. While the collection of data is not a beneficial use under these water rights, it is difficult to argue that the pasture land of Birch Creek Ranches will not be benefited from the application of water at this time of the year. The diversion of water will be consistent with the water rights as currently recorded.

My instruction to Don was to deliver these rights, as recorded, until they have been changed through approval of a transfer application. I also advised Don that he had no basis for any deliveries of these rights to D & D without an approved transfer. Until that time, the water available at the Reno Diversion should be delivered to fill the water rights currently recorded at that point. Based upon my understanding of the law and the responsibilities of the watermaster, your demand that the Department not deliver water to Birch Creek Ranches must be rejected.

I do understand your concern over the proposed test and the implications to the interests of your client. The Department has no information about how the test being proposed will be conducted. It would seem, as you indicate, that if Mr. Sorensen wanted to conduct an unbiased test he would prefile a study plan with the Director and request Department approval and participation. I would suspect that without unbiased technical overview his data will certainly be subject to increased challenges in any future proceedings.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Manager

RDC:cw

cc: Don Shenton

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
305 WEST MAIN
REXBURG, IDAHO 83440

BRECK H. BARTON

P.O. BOX 100
(208) 356-4880

August 11, 1989

Mr. Ron Carlson
Idaho Department of Water Resources
150 Shoup - Suite 15
Idaho Falls, ID 83402

Dear Mr. Carlson:

We understand that Mr. Ted Sorensen has made demand upon Don Shenton, the Water Master, for delivery of water of Birch Creek Ranches, Inc. to certain points of diversion on Birch Creek Ranches as formerly used by Mr. Bill Simmons for purposes of conducting some type of test to support the erroneous proposition advanced by Mr. Sorensen that the transfer of the Simmons water to the Sorensen power plant will not result in the bed losses previously known and measured on Birch Creek.

We do not believe that Mr. Sorensen has the authority to make such demand nor do we believe that the Water Master has the authority to deliver water for such a purpose. There will be no beneficial use made of the water delivered to Mr. Sorensen as he does not intend on irrigating anything with it. Mr. Wagoner is currently using water from Birch Creek and such diversion may curtail his use of the Birch Creek waters.

Further, we believe that any test to determine flow rate, bed loss, transforation loss, etc. should be conducted by the Idaho Department of Water Resources and not by Mr. Sorensen. We have been given no prior notice of any methodology Mr. Sorensen intends to employ and have serious reservations as to the objectivity and therefore authenticity or results that he might obtain from the same.

For the above reasons, demand is made upon the Idaho Department of Water Resources and upon the Water Master, Don Shenton to not deliver water to Ted Sorensen for purposes of any test application and further to prohibit any interference with the waters of Birch Creek for purposes of testing by Mr. Sorensen.

Respectfully yours,

Breck Barton

BB/cb

cc: Don Shenton

RECEIVED
AUG 14 1989
Department of Water Resources
Eastern District Office

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
MICHAEL D. CRAPO
JAMES D. HOLMAN
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
G. LANCE NALDER
J. MICHAEL WHEILER
MARIE T. FEELEY
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

R. VERN KIDWELL, OF COUNSEL

August 7, 1989

Department of Water Resources
Eastern District Office

Idaho Department of
Water Resources
1301 North Orchard
Statehouse Mail
Boise, Idaho 83720

RE: Application for Transfer of Water Rights Nos. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0089, 32-0067, 32-0090, 32-0068, and 32-0093.

Gentlemen:

We are in receipt of the Proposed Memorandum Decision and Order and the Order Issuing Proposed Memorandum Decision in the above entitled matter. It is our recollection that the meeting that was held in Idaho Falls on June 22, 1989, was agreed to be a conference only and that no one waived or relinquished the right to a formal hearing.

Birch Creek Ranches, Inc. believes that it would be premature to prepare exceptions to the proposed decision prior to the holding of a formal hearing, and since we believe that one is necessary at this point in time, hereby request that such hearing be scheduled at a time convenient to all parties.

Thank you for your kind attention to this matter.

Yours very truly,

Kent W. Foster

Kent W. Foster

#6936.00/srr

cc: Idaho Department of Water Resources (Idaho Falls)
Breck Barton, Esq.
John D. Hansen, Esq.
George Peterson, Esq.

COPY

May 17, 1977

RECEIVED
AUG 8 1989
Department of Water Resources
Eastern District Office

Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Gentlemen:

It has recently come to our attention, that certain of the water rights listed in the Birch Creek Decree (that is; the decree entered in the case of Agnes B. Reno, et al vs. J. R. Richards, et al, dated September 6, 1922, in the Ninth Judicial District Court of the State of Idaho, in and for the County of Fremont) have not, to our knowledge, ever been used on the lands to which the rights were made appurtenant under the decree, but rather, to our knowledge, have always been used in the manner set forth in this letter. It is our intention by this letter to explain how the water has been used, to release any claims which we may have on the specific water rights mentioned herein, which have been used on the others' property, and to consent to any formal transfer of such rights by the other so that the records will conform to the actual practice.

The first such right has been assigned Right No. 32-0088. The right was decreed to Frank C. and Jesse Worthing, in the amount of 1 cubic feet per second, with a priority date of July 29, 1907, and was decreed to land now owned by William T. and Theola Simmons. The decree indicates that this water right is from Pass Creek, a tributary of said Birch Creek. To the knowledge of the undersigned, this water has never been used in the manner described in the decree; but, in fact, all of the waters of Pass Creek have been used on land owned by Clifton and Blanche Waggoner. The undersigned, William T. and Theola Simmons hereby release any claim which they may have in and to said right, and hereby consent to the formal transfer by the Waggoners or their heirs, assigns or successors in interest of said water right to their lands at any time they might desire to do so.

Also, under said decree, certain portions of the water rights assigned No.s 32-0093, 32-0092, and 32-0091, are shown as being appurtenant to certain acres of land now owned by the undersigned, Clifton and Blanche Waggoner. To the knowledge of the undersigned, these rights have never been used on the lands now owned by Waggoners, and have always been used on lands now owned by William T. and Theola Simmons. The undersigned, Clifton Waggoner and Blanche Waggoner hereby release any claims in or to

the above numbered rights which they may now have by virtue of said decree, and hereby consent to the formal transfer by William T. and Theola Simmons, their heirs, assigns or successors in interest, of all or any portion of said water rights.

In Witness Whereof, we have hereunto set our hands and seals this 14th day of ~~May~~ June 1977.

William T. Simmons
William T. Simmons

Clifton Waggoner
Clifton Waggoner

Theola Simmons
Theola Simmons

Blanche Waggoner
Blanche Waggoner

STATE OF IDAHO )
County of Bonneville ) ss.

On this 14th day of ~~May~~ June 1977, before me, the undersigned, a Notary Public in and for said state, personally appeared William T. Simmons and Theola Simmons, his wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

Robert M. Saunders
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 3/10/79

(seal)

STATE OF IDAHO )
County of Bonneville ) ss.

On this 28th day of June ~~May~~ 1977, before me, the undersigned, a Notary Public in and for said state, personally appeared Clifton Waggoner and Blanche Waggoner, his wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

Robert M. Saunders
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 3/10/79

(seal)

Birch Creek
32-D

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT

32-D.05

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF

FREMONT.

COPY

Agnes B. Reno, Jerome F. Reno, Franklin A. Reno, Jennie C. Reno and Agnes M. Reno,

plaintiffs,

vs.

J.R. Richards, S. Kuharski, W. A. Tyler, Samual Goddard, M. Kaufman, W. A. Scott, W. W. Johnson, Thomas Miller, David Miller, Edward Kaufman, Henry Kaufman, Frank G. Worthing, Jessie Worthing, Chester Worthing, Thomas-Weimer, Charles B. Watts, William Goddard, Alfred L. Goddard, John Goddard, George Stevenson, Thomas Clark, Frank Clark, James Wells, Thomas Fayle, John Robison, James Dyer, Frank Shafer, Francis Waters, John B. Weimer, T. W. Thomas, E.D. Mason, Birch Creek Irrigation Company, a corporation, A. R. Nichols, Clara Granger, F. F. Granger, C. B. Watts and Wood Live Stock Company, a corporation,

Defendants.

JUDGMENT.

9-6-22

BE IT REMEMBERED, That:

This cause came regularly on for trial before the above entitled court sitting without a jury, a jury having been expressly waived by the respective parties thereto; Messrs. Standrod & Terrell and Messrs. Soule & Soule, appeared as attorneys on behalf of the plaintiffs, and A. M. Bowen, Esq., and J. W. Porter, Esq., appeared as attorneys for the defendants, Frank G. Worthing, Jessie Worthing and James Dyer; Messrs. Millsaps & Moon, appeared as attorneys for the defendants, Wood Live Stock Company, Thomas J. Weimer, C. B. Watts and Lillian M. Watts; B. J. Briggs, Esq. and W. L. McConnell, Esq., appeared as attorneys for the defendants, Samuel Goddard, William Goddard, Alfred L. Goddard, John Goddard and George Goddard; S.E. Blaine, Esq. appeared as attorney for the defendants, Birch Creek Irrigation Company, a corporation, and T. W. Thomas, A. H. McConnell, Esq. appeared as attorney for the defendant Edward M. Kaufman; W. A. Lee, Esq., appeared as attorney for the defendant, Oliver Ransom; and Holden and Holden, appeared as attorneys for the defendants, A. R. Nichols, Emma Nichols, J. C. Roberson, mentioned in the title of this action as John Robinson, (being one and the same person) Gertrude Roberson and Charles Curtis.

Whereupon witnesses were sworn and testified on behalf of the plaintiffs, and the several defendants, and cross-complainants appeared therein, and documentary evidence was offered and received by and on behalf of the said plaintiffs, defendants and cross-complainants, and the evidence closed. Argument was submitted by respective counsel on behalf of the said parties and the cause was finally submitted for decision; and the court having been requested by the counsel for the respective parties to visit and view the streams, ditches, springs and other features in controversy, took the said cause under advisement; and having provided by temporary order for the distribution of the waters of the streams in question, to the several users thereof, during the irrigation season of 1914, and until said premises could be viewed and examined; and having duly visited and viewed the stream, its tributaries and springs in controversy and the head gates, ditches and other works for the diversion of water therefrom; and having submitted to the counsel for the respective parties, a memorandum of its decision, as to the rights of the several parties involved, and having notified said counsel to appear before the said court at St. Anthony, in Fremont County, State of Idaho, on the first day of April, 1915, for the purpose of correcting any errors or omissions that might have occurred, at which time and place said hearing was had; after which the court entered its findings of fact and conclusions of law and decree; that thereafter certain of the within named defendants appealed to the supreme court of the State of Idaho, from the said decree and by the judgment of that court the judgment heretofore entered in this cause by this court was reversed in certain particulars and said cause remanded with instructions; that thereafter and heretofore this court fixed a time within which any party hereto might amend any pleading on file of which order of the court all parties hereto were duly notified; and that heretofore this cause was in open court set for trial in order that any party hereto might offer further evidence in support of his or its claim of which order of this court all parties were duly notified; that at the time and place heretofore fixed by the court for said trial and the submission of further testimony, the plaintiffs herein, Franklin A. Reno, Jennie C. Reno and Agnes M. Reno, appeared in person and by their counsel F. L. Soule, Esq., for the purpose of offering further testimony in support of their respective claims; and that no other party,

either plaintiff or defendant did appear at said trial for the purpose of offering furthering testimony or otherwise; and now this cause having been brought on for trial pursuant to the previous order of this court and further testimony having been offered by plaintiffs Franklin A. Reno, Jennie C. Reno and Agnes M. Reno, and the court now having considered all the testimony in the cause and being fully advised in the premises and pursuant to the mandate of the said Supreme Court of the State of Idaho, and having made and filed herein its findings of fact and conclusions of law in writing, now does make and enter its judgment herein, and by virtue of the law and the premises aforesaid;

IT IS HEREBY ORDERED ADJUDGED AND DECREED, that the defendants, Chester Worthing, Francis Watts, George Stevenson, Thomas Fayle, Thomas Clark, Frank Clark, Frank Shafer, James Wells, Charles Curtis, T. W. Thomas and Birch Creek Irrigation Company, a corporation, are not entitled to the use of any of the waters of the stream known as Birch Creek, having its source in Lemhi County, near the southerly boundary thereof, and flowing in a southeasterly course and finally disappearing at a point commonly known as the Birch Creek Sink ( the same being the waters involved in this action) or any of the tributaries of said creek, or any of the springs involved in this action, or any of the waters of the streams known as Nicholia Creek, Willow Creek, North Jump Creek, South Jump Creek, Mud Flat Creek and Dry Creek, rising northerly and near the source of said Birch Creek, or of any of the tributaries of said streams; and they and each of them, their servants, agents, attorneys and counselors are forever and perpetually enjoined from in any way taking or using or interfering with or molesting the use of said waters by the claimants entitled thereto, as hereinafter set forth, and from molesting or disturbing the head gates, ditches and other works for the diversion of any of said waters.

That as to the defendants J. H. Richards, S. Kuharski, W. A. Tyler, M. Kaufman, W. A. Scott, W. W. Johnson, Thomas Miller, David Miller, Henry Kaufman, George Stevenson and H. D. Mason, this action be and the same is hereby dismissed.

That the judgment of the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Fremont, Dated October 12th,

1894, in an action therein pending, wherein J. R. Richards is named as pliintiff and Frank Reno, S. Kuharski, William Goddard, W. A. Tyler, Samuel Goddard, M. Kaufman, W. A. Scott, W. W. Johnson, Thomas Miller, David Miller, Edward Kaufman and Henry Kaufman, are named as defendants, be and the same is hereby approved and confirmed, and the rights to the use of said waters of Birch Creek therein adjudicated, are herein distributed to the parties of said action, and to their grantees and successors in interest, as of the dates mentioned in said judgment.

It is further ordered, adjudged and decreed, that Agnes B. Reno have at all times the use of one cubic foot per second of time (fifty miners' inches) of the waters of said Birch Creek, her right to the use of the same to date, from the first day of April, 1910, all of which waters shall be used upon and become appurtenant to the following described lands:

The South Half of the North-east Quarter of Section Fourteen, In Township Eight North of Range Thirty-one, and East of the Boise Meridian in Clark County, State of Idaho, containing eighty acres;

That the said Agnes B. Reno, have at all times the use of six and four-tenths (6.4) cubic feet per second of time, (three hundred and twenty miners' inched) of the waters of said Birch Creek, her right to the use of the same to date, from the 10th day of May, 1884, as the successor in interest of W. A. Tyler, to be used upon and become appurtenant to the following described lands:

The North Half of Section Thirteen (13), in Township Eight (8) North of Range Thirty-one (31) East of the Boise Meridian, in Clark County, State of Idaho, containing three hundred and twenty acres:

That Jerome F. Reno, have at all times the use of three and two-tenths (3.2) cubic feet per second of time (one hundred and sixty miners' inches) of the waters of said Birch Creek, his right to the use of the same to date, from May 10th, 1883, and also have at all times the use of three and two-tenths (3.2) cubic feet per second of time (one hundred and sixty miners' inches) of the waters of said Birch Creek, his right to the use of same to date from May 10th, 1886, to be used upon and become appurtenant to the following described lands;

The South Half of the South-east Quarter, the South-east Quarter of the South-west Quarter, and Lot Numbered Four of Section Ten (10), and the North-east Quarter of the North-west Quarter, the North Half of the North-east Quarter, and Lot

numbered One (1) of Section Fifteen (15) in Township Eight (8) North of Range Thirty-two (32) East of the Boise Meridian, in Jefferson County, State of Idaho, containing three hundred and twenty acres:

That the said Jerome F. Reno, as the successor in interest of Winfield A. Scott, and Elizabeth Scott, his wife, also have the use at all times of three and two-tenths (3.2) cubic feet per second of time (one hundred and sixty miners' inches) of the waters of the said Birch Creek, his right to the use of the same to date from the 10th day of May, 1888, to be used upon and become appurtenant to the following described lands:

The Southwest Quarter of the South-west Quarter of Section Twelve (12), the South-east Quarter of the South-east Quarter of Section Eleven (11), and the West Half of the North-west Quarter of Section Thirteen (13), in Township Ten (10) North of Range Twenty-nine (29) East of the Boise Meridian in Clark County, State of Idaho, containing one hundred and sixty acres:

That Franklin A. Reno, have at all times the use of three and two-tenths (3.2) cubic feet per second of time ( one hundred sixty miners' inches) of the waters of the said Birch Creek, his right to the use of the same to date from the 1st day of April, 1904, to be used upon and become appurtenant to the following described lands:

The South-east Quarter of the North-east Quarter the South-west Quarter of the North-east Quarter, the North-west Quarter of the North-east Quarter, and the North-east Quarter of the North-west Quarter of Section Seven (7), in Township Eight (8) North of Range Thirty-three (33) East of the Boise Meridian, in Jefferson County, State of Idaho, containing one hundred and sixty acres:

That Jennie C. Reno, have at all times the use of three and two-tenths (3.2) cubic feet per second of time (one hundred and sixty miners' inches) of the waters of the said Birch Creek, her right to the use of the same to date from the first day of April, 1904, to be used upon and become appurtenant to the following described lands:

The East Half of the South-east Quarter and the North-west Quarter of the South-east Quarter of Section One (1) in Township Eight (8) North of Range Thirty-two (32) East of the Boise Meridian, and Lots numbered Six (6) and Seven (7) of Section six (6) in Township Eight (8) North of Range Thirty-three (33) East of the Boise Meridian in Jefferson County, State of Idaho, containing one Hundred and Fifty-nine and twenty-four one hundredths acres:

That the said Jennie C. Reno, also have at all times, the use of three and two-tenths (3.2) cubic feet per second of time ( one hundred and sixty miners' inches) of the waters of the said Birch Creek, her right to the use of the same to date from the 1st day of April 1907, to be used upon and become appurtenant to the following described lands:

The South Half of the South-east Quarter, the South-east Quarter of the South-west Quarter, the North-west Quarter of the South-east Quarter of Section Twelve (12) in Township Eight (8) North of Range Thirty-one (31) East of the Boise Meridian, in Clark County, State of Idaho, containing one hundred and sixty acres;

That Jennie C. Reno, and Franklin A. Reno, as the successors in interest of J. R. Richards, have jointly, the use at all times, of three and two-tenths (3.2) cubic feet per second of time ( one hundred and sixty miners' inches) of the waters of said Birch Creek, their right to the use of the same to date from the 10th day of May, 1884, to be used upon and become appurtenant to the following described lands:

The East Half of the South-west Quarter, and the West Half of the South-east Quarter of Section Twenty-one (21), Township Seven (7) North of Range Thirty-one (31) East of the Boise Meridian in Butte County, State of Idaho, containing one hundred and sixty acres;

That Agnes M. Reno, have at all times, the use of six and four-tenths (6.4) cubic feet per second of time (three hundred and twenty miners' inches) of the waters of the said Birch Creek, her right to the use of the same, to date from the fifth day of January, 1910, to be used upon and become appurtenant to the following described lands:

The North Half of the South-east Quarter, the North Half of the South-west Quarter of Section Ten (10), Township Eight (8) North of Range Thirty-two (32) East of the Boise Meridian, in Jefferson County, State of Idaho, containing one hundred and sixty acres; and the South Half of the North-west Quarter and the South Half of the North-east Quarter of Section Fifteen (15), Township Eight (8) North of Range Thirty-two (32) East of the Boise Meridian, in said Jefferson County, State of Idaho, containing one hundred and sixty-one and six-tenths (161.6) acres;

The said Wood Live Stock Company, a corporation, aforesaid, as successor in interest of Thomas and David Miller, have at all times the use of three and two-tenths (3.2) cubic feet per second of time ( one hundred and sixty miners' inches) of the waters of the said Birch Creek, its right to the use of the same to date from the 10th day of September, 1882, to be used upon and become appurtenant to the following described lands:

Lots Two (2), Three (3), and Four (4), and the South-East Quarter of the South-west Quarter of Section Nineteen (19), in Township Ten (10) North of Range Thirty (30) East of the Boise Meridian.

That the said Wood Live Stock Company, as the successor in interest of Thomas and David Miller, have at all times the use of three and two-tenths (3.2) cubic feet per second of time ( one hundred and sixty miners' inches) of the waters of the said Birch Creek, and also all of the waters of that certain spring, known as Miller's Spring, a tributary of the said Birch Creek; its right to the use of the same to date from the 10th day of May, 1887, to be used upon and become appurtenant to the following described lands:

The North-east Quarter of the North-west Quarter, and the North Half of the North-east Quarter, of Section Thirty (30), and the South-west Quarter of the South-east Quarter of Section Nineteen (19), Township Ten (10) North of Range Thirty (30) East of the Boise Meridian, containing one hundred and sixty acres, in Clark County, State of Idaho.

That the said Wood Live Stock Company, a corporation, as the successor in interest of William Goddard, also have, at all times, the use of three and two-tenths (3.2) cubic feet per second of time (one hundred and sixty miners' inches) of the waters of said Birch Creek, its right to the use of the same to date from the 10th day of May, 1888, to be used upon and become appurtenant to the following described lands:

The South-east Quarter of the North-east Quarter, and the North Half of the South-east Quarter, and the South-east Quarter of the Southeast Quarter of Section Twenty-four (24), in Township Ten (10) North of Range Twenty-nine (29) East of the Boise Meridian, containing one hundred and sixty acres, in Clark County, State of Idaho.

That Clara Granger and F.E. Granger, as the successors in interest of S. Kiharski, have at all times the use of three and two-tenths (3.2) cubic feet per

second of time ( one hundred and sixty miners' inches) of the waters of the said Birch Creek, their right to the use of the same to date from the 19th day of August, 1886, to be used upon and become appurtenant to the following described lands:

The East Half of the South-west Quarter of Section Twenty-five (25), and the East Half of the North-west Quarter of Section Thirty-six (36), in Township Eight (8) North of Range Thirty (30) East of the Boise Meridian, in Clark County, State of Idaho, containing one hundred and sixty acres.

That William Goddard have at all times the use of the waters of that certain spring situated about one-half of a mile above and northerly from Birch Creek Springs, and commonly known as "Goddard Springs ", his right to the use of the same to be exclusive; to be used upon and become appurtenant to the following described lands:

The East Half of the North-east Quarter of Section Twenty-one (21), the North-west Quarter of the North-west Quarter of Section Twenty-two (22), and the South-West Quarter of the South-west Quarter of Section Fifteen (15), in Township Eleven (11), North of Range Thirty (30) East of the Boise Meridian, in Lemhi County, State of Idaho, containing one hundred and sixty acres;

That Thomas J. Weimer have the exclusive use, at all times, of the waters of those certain springs situated in the South-east Quarter of the North-east Quarter of Section Three (3), Township Ten (10) North of Range Twenty-nine (29), East of the Boise Meridian; and also have, at all times; the use of two and nine-tenths (2.9) cubic feet per second of time of the waters of said Birch Creek; his right to the use of the waters of said Birch Creek to date from the 4th day of June, 1909; all of the said waters of the said Springs and of said Birch Creek to be used upon and become appurtenant to the following described lands:

The South-east Quarter of the North-east Quarter, the East Half of the South-east Quarter of Section Three (3), and the South-west Quarter of the South-west Quarter of Section Two (2), in Township Ten (10) North of Range Twenty-nine (29) East of the Boise Meridian, in Clark County, State of Idaho, containing one hundred and sixty acres; provided, however, that the said Thomas J. Weimer shall only be entitled to the use of one (1) Miners' inch per acre of the said waters for the irrigation of so much of said lands as are not in actual cultivation, until the whole thereof shall be placed in cultivation; and if the said defendant shall

fail to bring said lands under cultivation and make beneficial use of the waters thereon within five (5) years from the date hereof, he shall be deemed to have abandoned such part of said waters as have not been so used.

That the said Defendant, George Goddard, and his successors in interest, have, at all times, the use of two-tenths of a cubic foot per second of time (ten miners' inches) of the waters of said Birch Creek, his right to the use of the same to date from the 15th day of May, 1909; that said George Goddard, and his successors in interest, also, have, at all times, the use of an additional two-tenths of a cubic foot per second of time (ten Miners' inches) of the waters of Birch Creek, his right to the use of the same to date from the 15th day of May, 1910; and that the said George Goddard, and his successors in interest, have, at all times, the use of an additional two-tenths of a cubic foot per second of time (ten miners' inches) of the waters of said Birch Creek, his right to the use of same to-date from the 15th day of May, 1911; and that the said George Goddard, and his successors in interest, have, at all times, the use of eight-tenths of a cubic foot per second of time (forty miners' inches) of the waters of said Birch Creek, his right to the use of same to-date from the 15th day of May, 1913; all of said waters to be used upon and become appurtenant to the following described lands;

The North-east Quarter of the North-west Quarter, the West Half of the North-east Quarter, and the South-east Quarter of the North-east Quarter of Section Nine (9), Township Nine (9) North of Range Thirty (30) East of the Boise Meridian, in Clark County, State of Idaho, containing one hundred sixty acres;

And it is further decreed that said Defendant, George Goddard have not decree for any saved or increased flow of the waters of said Birch Creek.

That said John Goddard, and his successors in interest, have, at all times, the use of seven miners' inches of the waters of said Birch Creek, his right to the use of the same to-date from the first day of October, 1910; and that said defendant, John Goddard, and his successors in interest, also, have, at all times, the use of an additional thirteen miners' inches of the waters of said Birch Creek, his right to the use of time to-date from the 15th day of May, 1911; and that the said defendant John Goddard, and his successors in interest, have, at all times, the use of an additional eight-tenths of a cubic foot per second of time ( forty miners inches) of the waters of said Birch Creek, his right to the use of same to date from the 15th day of May 1912; all of the said waters to be used upon and become

appurtenant to the following described lands:

The West Half of the South-west Quarter of Section Five (5), and the West Half of the North-west Quarter of Section eight (8), Township Eight (8) North of Range Thirty-one (31) East of the Boise Meridian, in Clark County, State of Idaho, containing one hundred and sixty acres;

And it is further decreed that said defendant, John Goddard, have no decree for any saved or increased flow of the waters of said Birch Creek.

That the defendant, Alfred L. Goddard, and his successors in interest, have, at all times, the use of seven miners' inches of the waters of Birch Creek, his right to the use of same to date from the first day of October, 1910; and that said defendant, Alfred L. Goddard, and his successors in interest, have, at all times, the use of an additional ten miners' inches of the waters of said Birch Creek, his right to the use of the same to date from the 15th day of May, 1911; and that the said defendant, Alfred L. Goddard and his successors in interest, have, at all times, the use of an additional twenty-three miners' inches of the waters of said Birch Creek, his right to the use of the same to date from the 15th day of May, 1912; and that the said Defendant, Alfred L. Goddard and his successors in interest, have, at all times, the use of an additional ten miners' inches of the waters of said Birch Creek, his right to the use of the same to date from the 15th day of May, 1913; all of the said waters to be used upon and become appurtenant to the following described lands;

The East Half of the South-east Quarter of Section Six (6), and the East Half of the North-east Quarter of Section Seven (7), in Township Eight (8) North of Range Thirty-one (31) East of the Boise Meridina, in Clark County, State of Idaho, containing one hundred and sixty acres.

And it is further decreed that the said defendant, Alfred L. Goddard have no decree for any saved or increased flow of the waters of said Birch Creek.

That the defendant, Samuel Goddard, and his successors in interest, have at all times the use of two-tenths of a cubic foot per second of time (ten miners' inches) of the waters of said Birch Creek, his right to the use of same to-date from the 10th of May, 1910; and that the said defendant, Samuel Goddard and his successors in interest, have at all times the use of an additional two-tenths of a cubic foot per second of time ( ten miners' inches) of the waters of said Birch Creek, his right to the use of the same to-date from the 1st day of May, 1911; and

that the said defendant, Samuel Goddard and his successors in interest, have at all times the use of an additional two-tenths of a cubic foot per second of time ( ten miners' inches) of the waters of said Birch Creek, his right to the use of the same to-date from the 1st day of May, 1912; all of said waters to be used upon and become appurtenant to the following described lands:

The South-east Quarter of the North-west Quarter, the North-east Quarter of the South-west Quarter, and the North-west Quarter of the South-east Quarter of Section Nine (9), Township Nine (9) North of Range Thirty (30) East of the Boise Meridian, Clark County, State of Idaho, containing one hundred and twenty acres.

Ant it is further decreed that said defendant, Samuel Goddard, have no decree for any saved or increased flow of the waters of said Birch Creek.

That defendants, Frank G. Worthing and Jessie Worthing and their successors in interest, have at all times the use of one (1) cubic foot per second of time (fifty miners' inches) of the waters of Pass creek, a tributary of said Birch Creek, all of said waters to be used upon and become appurtenant to the following described lands:

The South Half of the South-east quarter of Section Thirteen (13), and the North-east Quarter of the North-east Quarter of Section Twenty-four (24), in Township Ten (10), North of Range Twenty-nine (29), East of the Boise Meridian, and the South-east Quarter of the South-east Quarter of Section Thirteen (13), and the North-east Quarter of the South-east Quarter, and the South-east Quarter of the North-east Quarter of Section Fourteen (14), in Township Ten (10) North of Range Twenty-nine (29), East of the Boise Meridian, in Clark County, State of Idaho, containing two hundred and forty acres; proveded, however, that the said amount of water to which the said Frank G. Worthing and Jessie Worthing are entitled to use from the said Pass Creek, may be emptied into the said Birch Creek at a point below the lands of said defendants last above described, and which said amount of water may be diverted by them from the said Birch Creek, in lieu of the waters of said Pass Creek so delivered into Birch Creek, at a point on Birch Creek conveniant and appropriate to carry the same to said lands, and provided further that the said Frank G. Worthing and Jessie Worthing and their successors in interest, shall at no time divert from Birch Creek more of its waters than said defendants are delivering in to Birch Creek from said Pass Creek, over and above the natural flow of said Pass Creek into said Birch Creek, to-wit: one (1) cubic foot, their right

to the use thereof to date from July 29, 1907.

That defendant, Lillian Watts, have no decree to or for any of the waters of said Birch Creek.

That defendant, Birch Creek Irrigation Company, have no decree to any waters of said Birch Creek.

That C. B. Watts also have the use at all times of two and one-half ($2\frac{1}{2}$) cubic feet per second of time ( one hundred and twenty-five miners' inches), the same being one-half of the decreed right of Ed. M. Henry and M. Kaufman, dating from May 10th, 1888; and one and three-fifths (1 3/5) cubic feet per second of time (eighty miners' inches), the same being one-half of the decreed right of W. W. Johnson, dating from May 10th, 1886; of the waters of Birch Creek; all of said waters to be used upon and become appurtenant to the following described lands, to-wit:

The West Half of the South-east Quarter, the North-east Quarter of the South-west Quarter and the South-east Quarter of the North-west Quarter of Section Twenty-three (23), in Township Ten (10) North of Range Thirty (30) East of Boise Meridian;

That Edward Kaufman have at all times the use of one half of one cubic foot ($\frac{1}{2}$) per second of time (twenty-five miners' inches) of the waters of the said Pass Creek, his right to the use of the same to date from the 1st day of May, 1901; that Edward M. Kaufman also have the use at all times of two and one-half ($2\frac{1}{2}$) cubic feet per second of time ( one hundred and twenty-five miners' inches), the same being one-half of the decreed right of M. Kaufman, Edward M. Kaufman and Henry D. Kaufman, and dating from May 10th, 1888: also one and three-fifths (1 3/5) cubic feet per second of time ( eighty miners' inches), the same being one half of the decreed right of W. W. Johnson and dating from May 10th, 1886; said heretofore decreed water and all of it being taken from the main channel of Pass Creek and all of said water to be used upon and become appurtenant to the following described lands.

The South Half of the South-west Quarter of Section Twenty-nine (29), the North Half of the North-west Quarter of Section Thirty-two (32), the North-west Quarter of the South-west Quarter of Section Twenty-nine (29), the North-east Quarter of the South-east Quarter of Section Thrity (30), in Township Ten (10) North of Range Thirty (30) East of the Boise Meridian, in Clark County, State of Idaho, containing two hundred and forty acres.

That Oliver Ransom have, at all times, the use of one cubic foot per second of time (fifty miners' inches) of the waters of Nicholia Creek, his right to the use of the same to date from the 6th day of November, 1890; that he also have at all times the use of all the waters from North Jump Creek and South Jump Creek, his right to the use of the same to date from the 6th day of November, 1890; that he also have the right to the use, at all times, of three and two-tenths (3.2) cubic feet per second of time (one hundred and sixty miners' inches) of the waters of Willow Creek, up to and including the 15th day of July in each and every irrigating season; and after said date he is entitled to have, at all times, the use to two and nine-fiftieths (2 9/50) cubic feet per second of time ( one hundred and nine miners' inches) of said waters of Willow Creek throughout the remainder of each and every irrigating season, his right to the use of the same to date from the 6th day of November, 1890; said waters to be used upon and become appurtenant to the following described lands:

The South Half of the North-west Quarter and the South-west Quarter of Section Twenty-one (21); the North Half of the North-west Quarter of Section Twenty-eight (28), all in Township Twelve (12) North of Range Twenty-nine (29), East of the Boise Meridian, in the County of Lemhi, State of Idaho, and containing three hundred and twenty acres;

And that the said defendant, Oliver Ransom, have the right to deliver the waters so allotted to him from the said North Jump Creek and said South Jump Creek into and commingle the same with the waters of said Willow Creek, and to use the natural channel of said Willow Creek to carry the waters of said North Jump Creek and said South Jump Creek to his point of diversion thereof from said Willow Creek; provided however, that the said Oliver Ransom shall at no time use more water from said Willow Creek than the amount so delivered therein from said North Jump Creek and said South Jump Creek and the amount so allotted to him from said Willow Creek;

That A. R. Nichols have the use, at all times, of three and two-tenths (3.2) cubic feet per second of time ( one hundred and sixty miners' inches) of the waters of the said Willow Creek, his right to the use of the same to date from the 25th day of June, 1910; to be used upon and become appurtenant to the following described lands:

The North-west Quarter of the South-west Quarter, and the West Half of the South-east Quarter of Section Thirty (30), and the North-west Quarter of the North-east

Quarter of Section Thirty-one (31), all in Township Twelve (12) North of Range Twenty-nine (29), East of the Boise Meridian, in Lemhi County, State of Idaho, containing one hundred and sixty acres;

That Emma Nichols have, at all times, the use of six and four-tenths (6.4) cubic feet per second of time (three hundred and twenty miners' inches) of the waters of the said Willow Creek, her right to the use of the same to date from the 25th day of June, 1910; to be used upon and become appurtenant to the following described lands:

The North-west Quarter of Section Five (5), and the South-west Quarter of the North-east Quarter, and the West Half of the South-east Quarter, and all of the South-east Quarter of the South-east Quarter of Section Five (5), all in Township Eleven (11) North of Range Twenty-nine (29) East of the Boise Meridian, in Lemhi County, State of Idaho, containing three hundred and twenty acres;

That J. C. Hoberson, have the use at all times, of six and four-tenths (6.4) cubic feet per second of time (three hundred and twenty miners' inches) of the waters of the said Willow Creek, his right to the use of the same to date from the 25th day of June, 1910; to be used upon and become appurtenant to the following described lands:

The South-east Quarter of the South-west Quarter of Section Thirty (30), and the North-west Quarter of Section Thirty-one (31) and the North Half of the South-west Quarter of Section Thirty-one (31), Township Twelve (12), North of Range Twenty-nine (29), East of the Boise Meridian, in Lemhi County, State of Idaho.

That Gertrude Hoberson, have at all times, the use of six-and four-tenths (6.4) cubic feet per second of time (three hundred and twenty miners' inches) of the waters of the said Willow Creek, her right to the use of the same to date from the 25th day of June, 1910; to be used upon and become appurtenant to the following described lands;

The East Half of the North-west Quarter, and the West Half of the North-east Quarter, and the North Half of the South-east Quarter of Section Twenty-six (26), and the West Half of the South-west Quarter of Section Twenty-five (25), all in Township Twelve (12) North of Range Twenty-eight (28), East of the Boise Meridian, containing three hundred and twenty acres, in Lemhi County, State of Idaho; provided, that whenever the surplus or increased flow of the waters of the said Willow Creek, shall be less than twenty-two and two-fifths cubic feet per second of time, that

22.4 cfs

then and in such case, the said A. R. Nichols, Emma Nichols, J. C. Roberson, and Gertrude Roberson, shall each receive one-forth of said amount of said surplus waters, their right so to receive such surplus waters; to be of the same date of priority and of equal dignity the one to the other; and that whenever the said surplus or increased flow of said waters of the said Willow Creek, shall be more than twenty-two and two-fifths cubic feet per second of time, then and in such case, the said A. R. Nichols, Emma Nichols, J. C. Roberson and Gertrude Roberson, shall receive the full amount of said waters to which they are entitled, as above set forth;

It is further ordered, adjudged and decreed that each of the parties hereto to whom the right to the use of the said waters is allotted, shall at his own expense, within thirty days from the date hereof, construct, place and forever maintain at the point or points of their respective diversions, suitable and adequate head gates, boxes and flumes, and other measuring devices, to be approved by the State Engineer of the State of Idaho, for the diversion and measurement of the water to which each of them is entitled as herein set forth, so that such head gate and other measuring devices may be locked and kept closed by the Water Master or other officer in charge.

It is further ordered, adjudged and decreed, that the defendants, Samuel, George, John and Alfred L. Goddard, be and they are hereby permitted to divert from the natural channel of Birch Creek, at a point about nine miles north of the J. R. Richards' ranch, through the ditches commonly known as the Goddard Ditch and the people's Ditch, all of the waters flowing in said stream at said point for the purpose of supplying the said J. R. Richards' ranch, with the amount of water herein decreed to it, and conserving such water and preventing the loss and waste thereof; provided, however, that the said Samuel, George, John and Alfred L. Goddard, shall at all times keep and maintain the said Goddard Ditch and the said People's Ditch in good repair, so as to carry all the waters of said stream without loss or waste, except natural evaporation and percolation; and if the said Samuel, George, John and Alfred L. Goddard, or either of them, shall suffer or permit any of such waters to waste from said ditches, then the said waters and the whole thereof shall be returned to the natural channel of said stream.

It is further ordered, adjudged and decreed, that each of the parties to this action to whom water is herein allotted, shall pay all costs incurred by him in this action, including his proportionate share of the stenographer's fees.

That execution may issue out of this Court for the enforcement of the collection thereof.

It is further ordered, adjudged and decreed that each and every of the parties hereto, their agents, servants, counselors and employees, be, and they are hereby forever and perpetually restrained and enjoined from using or interfering in any manner in the use of the waters of the said Birch Creek, and its springs and tributaries and all other springs and streams herein mentioned, except in the manner and in accordance with their rights to the use of such water as herein above set forth and as herein allotted to them respectively.

Dated this 6th day of September, 1922.

James G. Gwinn,

District Judge.

Filed for record at the request of F. L. Soule at 11:30 A.M., September 14th, 1922.

S. D.FARNSWORTH,

Recorder.

ISSUES

✓ 1. Blanch Wagoner –
T 2165 – 32-0091 .50 5/19/1909
Pass creek right has been made appurtenant to Wagoner's land

✓ 2. Water from Pass creek do not enter Birch creek.

✓ 3. Blanch Wagoner claimed A32-00091 in SRB adjudication

* 4. Shrink associated with the Transfer down stream

5. EXPANSION IN USE OF ORIGINAL RIGHT. (Brief perhaps)

6. Bare Contract – Security for Simmons loan – when contract is paid out Protest is withdrawn –

Possible Resolution

1. Stipulate that Waggoner rights can not be cut to supply transferred rights

Bill Simmons purchased property from Bare. Transfer in 1970's to get use consistent w/ records.
Simmons has discussed lease of water to lands of DD ranchos, Two year lease. Sorensen & DD Dwill share lease
Mrs. Bare - wants her security interest
Foster said they plan to pay off Mrs. Bare.

TEO - Licenses & Construction 1986.
75 cfs Licenses.
5 cfs release for stream
27 - 34 cfs last year
46 - 47 cfs this year

ISSUE

OWNERSHIP OF 32-0091 – .50 cfs

FOSTER –

32-0088 - Wagoner's Own. - Pass Ck

32-0091 – \ – Birch Creek

0092 – – SIMMONS

0093 – –

it is agreed that, Simmons has no Pass creek water.

where has 0091 been delivered.?

Parties can agree to ownership per. transfer 2165

SHRINK – 35 1033 9/87 -

WAGONER has ~6 cfs max → never cut below 4. cfs. Principle

I will meet w shorts

INCREASED USE -

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405
TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
MICHAEL D. CRAPO
JAMES D. HOLMAN
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
G. LANCE NALDER
J. MICHAEL WHEILER
MARIE T. FEELEY
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

R. VERN KIDWELL, OF COUNSEL

RECEIVED
AUG 8 1989
Department of Water Resources
Eastern District Office

August 7, 1989

Mr. Ron Carlson
150 Shoup Avenue, #15
Idaho Falls, Idaho 83402

Dear Ron:

In case we have not done it before, I am enclosing a photocopy of the agreement entered into between the Simmonses and the Wagoners at the time of and in connection with the earlier transfer.

Yours very truly,

Kent W. Foster

#6936.00/srr

Enclosure

State of Idaho
DEPARTMENT OF WATER RESOURCES (208) 327-7900
[illegible] North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - [redacted]

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

TRANSMITTAL COVER SHEET

OMNIFAX 688
Phone No.: (208) 327-7866

TO: Colleen Wray
Water Resources

FROM: Rita Fluck
Water Resources

DOCUMENT DESCRIPTION: _____

TOTAL PAGES SENT: 2

CONTACT: R. Fluck 327-7953
(Name of Sender)

BEFORE THE DIRECTOR OF THE DEPARTMENT

OF WATER RESOURCES OF THE

STATE OF IDAHO

| | |
|---|---|
| **IN THE MATTER OF** APPLICATION FOR TRANSFER OF WATER RIGHTS NOS. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0089, 32-0067, 32-0090, 32-0068, 32-0093 IN THE NAME OF BIRCH CREEK RANCHES INC. | **ORDER ISSUING PROPOSED MEMORANDUM DECISION** |

R. Keith Higginson, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by this appointee, Ronald D. Carlson, who conducted the hearing or who has read the record in this case, hereby approves the same as a proposed decision pursuant to Idaho Code, Sec. 67-5211.

Each party to these proceedings who appeared at the hearing is given the opportunity, pursuant to Idaho Code, Sec. 42-1701A and 67-5211, to file exceptions to the proposed decision and to present briefs and oral arguments. If no timely and proper exceptions are received, an order by the Director will be entered adopting the proposed decision as his final decision.

## I.
## EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision,

2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions, and

3. be sent to each of the parties who appeared or their attorneys.

## II.
## BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. All response briefs to the exceptions must be filed with the Director within 15 days after the exceptions were served upon the responding party.

III.

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exception.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral argument in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposed decision shall be heard at the discretion of the Director, pursuant to Idaho Code, Sec. 42-1701A. If oral agruments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

IV.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

V.

FINAL DECISION

Following the submission of all exceptions, briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

Dated this 3rd day of August, 19 89.

R. KEITH HIGGINSON
Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NO. 32-0069, 32-0092, 32-0061C, 32-0091, 32-0089, 32-0067, 32-0090, 32-0068, 32-0093 IN THE NAME OF BIRCH CREEK RANCHES INC. | PROPOSED MEMORANDUM DECISION AND ORDER |

Between September 8, 1982 and January 3, 1984, Ted Sorensen of Idaho Falls, Idaho applied for and received water right permits 32-7128 and 32-7136, totaling 75 cubic feet per second (cfs) of the waters of Birch Creek for the production of hydropower. Subsequently, a power plant was built and has been producing power since 1986.

Since that time Mr. Sorensen has sought to increase the water supply to his power plant by reducing or limiting upstream diversions and has explored methods of reducing channel losses. He has had discussions with the Bureau of Land Management relative to a proposal to line the lower two to three miles of the Birch Creek channel. The efforts to increase water through his power plant have now resulted in his purchase of Birch Creek Ranches from William Simmons. The transfer of the water rights from this ranch to lands below the Sorensen power plant is the subject of this transfer proposal.

Notice of the application to transfer these rights from their original place of use to lands below the Sorensen power plant was advertised in the Post Register on May 4 and 11, 1989 and subsequently was protested by Margery Bare, Blanche Wagoner and Mac

and Betty Wagoner. A conference was held with the parties and their respective attorneys on June 22, 1989. The attorney for the applicants (Ted Sorensen and William Simmons) was Kent W. Foster of Idaho Falls. Protestant, Mac Wagoner was present and represented by Breck Barton of Rexburg. John Hansen of Idaho Falls represented the interests of Margery Bare.

The following issues were identified as needing resolution:

1. Blanche Wagoner claims the right identified by water right 32-0091. This right for 0.50 cfs from Pass Creek with a priority of May 19, 1909, was included among the rights the applicant has requested to change in the subject application.

2. William Simmons purchased the lands from which the water rights would be removed from Margery Bare. There remains an unpaid balance under their contract. Mrs. Bare is concerned about having the water rights transferred from the land before the contract amount is paid in full.

3. The protestants, Mac and Betty Wagoner, believe their water rights would be adversely affected if the applicant's water rights are not properly reduced as a condition of the change in point of diversion to compensate for the high channel losses in the Birch Creek channel between the applicant's current points of diversion and the Sorensen power canal (the Reno Ditch).

4. The protestants argue that the proposed change will result in an enlargement in the use of the original rights because the water would be used at the maximum possible rate all year long because of Ted Sorensen's desire to maximize flows through his power plant.

Issues 1 & 2 were found to be resolvable at the conference. The parties agreed that the remaining monies owed Margery Bare under her contract with Bill Simmons would be paid in the near future. Ted Sorensen recognized Blanch Wagoner's claim to water right 32-0019. Issues 3 & 4 were not resolved and representatives of the IDWR agreed to meet with the watermaster of Water District 32-D to collect whatever data might be necessary to propose a distribution method that would assure that; other water rights would not be injured, or the changed rights enlarged. A field evaluation of Birch Creek and the existing distribution system was conducted with the watermaster on July 3, 1989. Additional data were collected for use in evaluating the potential impacts to other water rights that are likely to occur if this transfer application were approved. Based upon the conference, data in the files of the Department, the field evaluation, and the hearing officer's understanding of the law, the hearing officer now makes the following Findings of Fact, Conclusions of Law and Order:

## FINDINGS OF FACT

1. In about 1975 William T. Simmons, dba Birch Creek Ranches Inc., entered into a contract to purchase a ranch in the Birch Creek Drainage of Clark County, from Margery Bare. This ranch is comprised of approximately 1,000 acres located in Sections 19, 29, 30, and 32, Township 10 North, Range 30 East, Sections 11, 12, 13, 14, 24, and 25, Township 10 North, Range 29 East, B.M., Clark County. The water rights identified at that time as being appurtenant to these lands total 18.7 cfs and are generally identified as follows:

| Right No. | Priority | Amount | Nature of Use | Source |
|---|---|---|---|---|
| 32-0067 | 9/10/1882 | 3.2 cfs | Irrigation | Birch Creek |
| 32-0090 | 5/10/1886 | 1.6 cfs | Irrigation | Birch Creek |
| 32-0093 | 5/10/1886 | 1.6 cfs | Irrigation | Birch Creek |
| 32-0068 | 5/10/1887 | 3.2 cfs | Irrigation | Birch Creek |
| 32-0089 | 5/10/1888 | 2.5 cfs | Irrigation | Birch Creek |
| 32-0069 | 5/10/1888 | 3.2 cfs | Irrigation | Birch Creek |
| 32-0092 | 5/10/1888 | 2.5 cfs | Irrigation | Pass Creek |
| 32-0061C | 5/10/1888 | 0.4 cfs | Irrigation | Birch Creek |
| 32-0091 | 5/01/1901 | 0.5 cfs | Irrigation | Pass Creek |

There remains a balance to be paid to Mrs. Bare under this contract.

2. Right 32-0091, which appears in the list of rights sought to be transferred, represents an entitlement to divert 0.5 cfs from Pass Creek under a priority of May 1, 1901, for the irrigation of the NW1/4SW1/4, S1/2SW1/4, Section 29, N1/2NW1/4, Section 32, NE1/4SE1/4, Section 30, all in Township 10 North, Range 30 East. Water right 32-0091 was included in transfer 2165 which was initiated by William T. Simmons on September 8, 1977, and approved by the Department on February 22, 1983. Some of the land described under this right is not owned by William T. Simmons. In the Snake River Basin Adjudication, right 32-0091 was not claimed by William T. Simmons but was claimed by Blanche Wagoner.

3. The rights Birch Creek Ranches Inc. is now trying to transfer have been diverted at seven points of diversions along a four mile reach of Birch Creek with the upper and lower diversion points being described as being within the NE1/4SE1/4, Section 11, Township 10 North, Range 29 East and the NW1/4NW1/4, Section 32, Township 10 North, Range 30 East, B.M., respectively. The points of diversion of protestants, Mac and Betty Wagoner, are downstream

approximately one mile from the applicant's lowest diversion point.

4. The lands to which these water rights would be made appurtenant are lands owned by D & D Enterprises (D & D). According to discussions that took place during the conference it appears that D & D has agreed to lease these rights from Ted Sorensen for the next two years for the irrigation of 960 acres of land. Neither the transfer application nor file reflect such an arrangement. The water will be diverted through the Sorensen power plant prior to delivery to D & D for irrigation.

5. Loss measurements have been made by the watermaster, the Bureau of Land Management (BLM), the U. S. Geological Survey (USGS), and the Department of Water Resources (IDWR). Losses measured between the USGS gage near Blue Dome and the Reno Ditch range between 25% and 50% of the flow at Blue Dome. These losses appear to increase during the summer months. On July 3, 1989, during their review, the department personnel and the watermaster collected the following data:

| Time | Location | Flow |
|---|---|---|
| 10:30 | Reno Ditch | 47.00 cfs |
| 11:00 | Birch Creek Bypass | 2.03 cfs |
| 11:45 | Wagoner Diversion | 5.86 cfs |
| 12:00 | Blue Dome Gage | 81.20 cfs |
| 12:20 | Pass Creek | .42 cfs |
| 12:45 | Wilding Diversion | 16.80 cfs |
| 13:00 | D & D Diversion | 30.60 cfs |

Losses between Blue Dome and the Reno diversion were computed as follows:

Flow at Blue Dome - Wagoner Diversion - Bypass flow + loss = Flow at Reno Ditch

Loss = 47.0 - 81.2 + 2.03 + 5.86 = 26.31 cfs

This loss represents 32.40% of the flow at the Blue Dome Gage on this date.

Data from previous measurements indicate that these losses tend to increase during the summer. Losses determined in July and August of 1988 averaged 45% of the flow at the USGS gaging station near Blue Dome.

(The diversions for D & D and Wilding do not enter into the calculations of loss because they divert below the Sorensen power plant. Losses through the power canal appear to be small enough to be ignored. On the date the above referenced data were collected no water was reaching Birch Creek from Pass Creek.)

6. The watermaster records indicate that Mac Wagoner's right 32-0102 for 4.00 cfs dating from May 10, 1889, has never been cut or reduced to fill downstream rights on Birch Creek. At the present time it appears this could only happen if the natural flow at the Reno Diversion dropped below 20.8 cfs. If the obligation to deliver water at the Reno Diversion were increased by 18.2 cfs, Wagoner's right could not be delivered after mid-July during many years.

7. Idaho Code, Section 42-222 provides for changes in the point of diversion, place of use, period of use, or nature of use of a water right. When an application for transfer is filed with the department the director is required to, "examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is in the local public interest as defined in Section 42-203A, Idaho Code; except the director shall not approve a change in the nature of use from agricultural use where such change would significantly affect the agricultural base of the local area." There is no change in nature of use or period of use

requested in the application by Birch Creek Ranches, Inc.

8. The water rights of D & D Enterprises that cover portions of the lands identified as the proposed place of use in this application are claimed in the SRBA as follows:

| Right No. | Priority | Amount | Nature of Use | Source |
|---|---|---|---|---|
| A32-00060A | 5/10/1883 | 1.60 cfs | Irrigation | Birch Ck. |
| A32-00065 | 5/10/1884 | 3.20 cfs | Irrigation | Birch Ck. |
| A32-00080A | 5/10/1886 | 1.60 cfs | Irrigation | Birch Ck. |
| A32-00070A | 8/19/1886 | 2.40 cfs | Irrigation | Birch Ck. |
| A32-00061D | 5/10/1888 | 2.80 cfs | Irrigation | Birch Ck. |
| A32-00063 | 4/01/1904 | 3.20 cfs | Irrigation | Birch Ck. |
| A32-00064 | 4/01/1907 | 3.20 cfs | Irrigation | Birch Ck. |
| A32-00066B | 1/05/1910 | 3.20 cfs | Irrigation | Birch Ck. |
| A32-00066A | 5/05/1910 | 3.20 cfs | Irrigation | Birch Ck. |
| A32-00074 | 10/01/1910 | 0.14 cfs | Irrigation | Birch Ck. |
| A32-00076 | 5/15/1912 | 0.80 cfs | Irrigation | Birch Ck. |
| A32-00083 | 5/15/1912 | 0.46 cfs | Irrigation | Birch Ck. |
| A32-02043 | 9/19/1912 | 6.40 cfs | Irrigation | Birch Ck. |

Eighty acres of land identified as being located within the NW1/4SE1/4, SE1/4SE1/4, Section 12, Township 8 North, Range 31 East, B.M. in this application do not appear to have any other water rights appurtenant to them. On the date of the July 3, 1989 field review water rights dating to 1909 were being delivered at the Reno Ditch, requiring 22 cfs of flow. The delivery to D & D on this date represented about 0.02 cfs per irrigated acre claimed in the SRBA claims.

No water was being diverted by Birch Creek Ranches Inc. on this date.

## CONCLUSIONS OF LAW

1. Margery Bare has a monetary interest in the lands and water rights identified in the application for transfer of Birch

Creek Ranches Inc. until William Simmons' contractual obligations with her has been fulfilled. However, the protection of her interest does not prevent the approval of this application. A condition of approval recognizing that Margery Bare's interest represents a lien on these rights until the contract is paid in full would be appropriate.

2. An approved transfer normally would be considered sufficient evidence of possessory interest to allow the owner of the lands to which the water right(s) were made appurtenant to initiate a second change. Transfer 2165, initiated by Wm. T. Simmons in 1977, approved the change of the water rights the applicant now is attempting to transfer. Water right number 32-0091 was included in Transfer 2165 and, thus, appears to belong to Birch Creek Ranches Inc. However, the fact that William Simmons did not claim right 32-0091 in the Snake River Basin (SRB) Adjudication and Blanche Wagoner did clouds the ownership issue. This right should not be considered in the subject transfer unless the applicant and protestants can agree upon the ownership of this right and appropriate corrections, if necessary, are made in the SRBA claims.

3. It appears that the flow available at Wagoner's (Mac & Betty) point of diversion has historically included return flows coming from the irrigation of the Simmons' ranch. The proposed transfer would reduce the flows available to the protestants by an unquantified amount. Conditions of approval of this proposed change must compensate for this impact.

4. Water right 32-0092 decrees 2.5 cfs from Pass creek. A measuring device must be installed and maintained by the applicant at

the point where Pass Creek enters Birch Creek. The amount of water available under right 32-0092 can not exceed the average flow flowing from Pass Creek into Birch Creek on the previous day. This same condition would apply to the combination of rights 32-0092 and 32-0091 if right 32-0091 were transferred.

5. Because of the loss of return flows and the fact that the rights of Mac and Betty Wagoner were never directly subject to the rights now being changed, their right identified by number 32-0102 is not subject to curtailment by the watermaster to supply water to these rights after approval of the subject transfer.

6. The applicant is entitled to the delivery of the subject water rights for irrigation purposes, with appropriate reductions to compensate for the loss of return flows and for channel losses. The incremental losses associated with the addition of these water rights to the flows between Lone Pine and the Reno ditch can be expected to change constantly and can not be easily measured. Any effort to limit the water right reductions to the resulting incremental increases in losses would result in injury to other water rights and is simply not administrable. Therefore, these rights shall be reduced by the percentage channel loss occurring between the bridge near Lone Pine (the approximate location of the abandoned middle diversion of Wm. Simmons) and Reno Ditch). The percentage of loss to be charged shall be determined periodically by the watermaster throughout the irrigation season.

7. The hydropower benefits arising from the increased flows through Ted Sorensen's power plant are incidental and should not be considered in the delivery of these rights. Only the

irrigation use as herein approved shall dictate the watermaster's delivery of these rights.

ORDER

IT IS, THEREFORE, ORDERED and Application for Transfer 32-0069, 320092, 32-0061C, 32-0089, 32-0067, 32-0090, 32-0093, 32-0068 is hereby APPROVED subject to the following conditions:

1. The right to the use of water on the lands and through the points of diversion described in water right Transfer 2165 is hereby abandoned and are hereby made appurtenant to the lands as described herein.

2. That the control and delivery of these rights is and shall remain under the control of the watermaster of Water District 32-D.

3. Until her contract with William Simmons is paid in full Margery Bare's interest in these rights shall be recognized as being sufficient in a default judgment for the IDWR to process an application for transfer of these rights back to the original lands and diversion points.

4. The approval of this transfer does not include the water right identified by number 32-0091.

5. A measuring device of a type approved by the department shall be installed and maintained on Pass Creek at a location approximate to the point where Pass Creek discharges into Birch Creek. The amount of water entitlement under right 32-0092 shall be 2.5 cfs until the flow of Pass Creek becomes less than 2.5 cfs. Any time the flow of Pass Creek is less than 2.5 cfs, the right shall be

limited to the amount flowing from Pass Creek. All delivery losses shall be applied as set forth in Condition 7.

6. Water right 32-0102 held by Mac and Betty Wagoner is not subject to curtailment by the watermaster in supplying water for these rights.

7. A percentage loss, determined from time-to-time by the watermaster, shall be applied to these rights, in an amount that is equal to the percentage of water that is lost between the bridge near Lone Pine and the measuring device at the head of the Reno Ditch.

Dated this 1st day of August, 1989.

RONALD D. CARLSON
Hearing Officer

CERTIFICATE OF MAILING

I, hereby certify that on this _____ day of August, 1989, I mailed a true and correct copy, postage prepaid, of this proposed Memorandum Decision and Order to:

Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

George Peterson
Attorney at Law
485 "E" Street
Idaho Falls, ID 83402

John D. Hansen
Attorney at Law
P.O. Box 51718
Idaho Falls, Idaho 83405-1718

Kent W. Foster (HAND DELIVERED)
Attorney at Law
P.O. Box 50130
Idaho Falls, ID 83405

Colleen Wray
COLLEEN WRAY
Adm. Assistant
Department of Water Resources

# MEMO

7-13-89

**DONALD W. SHENTON, WATERMASTER**

Ron Carlson

Here is a copy of the measurement you made of the overflow of the Birch Creek Power Co.

Thought I had sent the same - If you don't have a cut-off sheet for Birch Creek, let me know and I will send one to you.

Don S.

RECEIVED
JUL 25 1989
Department of Water Resources
Eastern District Office

# WATER DISTRICT NO. 31

Donald Shenton, Watermaster

**DISCHARGE MEASUREMENT NOTES**

RECEIVED
JUL 25 1989
Department of Water Resources
Eastern District Office

GAUGE _____ DATE 7-3, 19 89

TIME: BEGIN _____ END _____

Power Co. Overflow
at Spillgate at Bottom of Pond.
Amount Being Spilled By Birch Creek Power

| DIST. FROM INITIAL POINT | WIDTH | DEPTH | REVOLUTIONS | TIME IN SECONDS | VELOCITY AT POINT | VELOCITY MEAN IN VERTICAL | ADJUSTED FOR HOR. ANGLE | AREA | DISCHARGE |
|---|---|---|---|---|---|---|---|---|---|
| 0. | .25 | .75 | 20 | 48 | .708 | | | 0.187 | 0.1324 |
| .50 | .50 | .75 | 20 | 45 | .994 | | | .375 | 0.3727 |
| 1.0 | .50 | .75 | 20 | 60 | .753 | | | .375 | 0.2820 |
| 1.5 | .50 | .75 | 20 | 73 | 0.65 | | | .375 | 0.2437 |
| 2.0 | .50 | .75 | 20 | 43 | 1.04 | | | .375 | 0.3900 |
| 2.5 | .50 | .75 | 30 | 59 | 1.13 | | | .375 | 0.4240 |
| 3.0 | .25 | .75 | 20 | 46 | .973 | | | 0.187 | 0.1820 |
| | 3.0 | | | | | | | | |
| | | | | | | | | | 2.03 |

Spin test 3.30
Measurement Made By Ron Carlson

TOTAL C.F.S. 2.03

MINERS INCHES 101.5

No. 1 of 1 Sheets. Comp. by Ron C Chk. by Don S.

BIRCH CREEK STREAMFLOW 1989

| POINT OF MEASUREMENT | DATE/TIME 3/13/89 | DATE/TIME 3/21/89 10:15 a.m. | DATE/TIME 4/06/89 9:45 a.m. | DATE/TIME 4/24/89 10:35 a.m. | DATE/TIME 5/11/89 10:20 a.m. | DATE/TIME 6/2/89 9:23 a.m. |
|---|---|---|---|---|---|---|
| Blue Dome | G.H. 1.95 | G.H. 1.92 | G.H. 1.90 | G.H. 1.84 | G.H. 1.84 | G.H. 1.83 |
| CFS Flow | 87.90 | 87.60 | 89.06 | 77.58 | 85.71 | 79.34 |
| CFS Loss | 2.06 | 6.34 | *8.4 | *3.32 (gain) | **6.09 | **3.22 |
| CFS Loss/Mile | 1.69 | 5.20 | 6.88 | 2.72 (gain) | 4.99 | 2.63 |
| | | | | | | |
| Massacre | | 11:17 a.m. | 10:57 a.m. | 11:30 a.m. | 11:16 a.m. | 10:50 a.m. |
| CFS Flow | 85.84 | 81.26 | 76.66 | 76.90 | 73.47 | 70.63 |
| CFS Loss | 15.40 | 9.62 | 7.31 | 6.03 | 7.89 | 8.36 |
| CFS Loss/Mile | 4.95 | 3.09 | 2.35 | 1.94 | 2.54 | 2.69 |
| | | | | | | |
| Top Exclosure | | 12:30 p.m. | 12:40 p.m. | 12:42 p.m. | 12:51 p.m. | 12:37 p.m. |
| CFS Flow | 70.44 | 71.64 | 69.35 | 70.87 | 65.58 | 62.27 |
| CFS Loss | 7.63 | 5.69 | 7.73 | 8.5 | 7.83 | 7.64 |
| CFS Loss/Mile | 4.54 | 3.39 | 4.6 | 5.06 | 4.66 | 4.55 |
| | | | | | | |
| Eight Mile Road | | 1:49 p.m. | 1:58 p.m. | 1:38 p.m. | 1:55 p.m. | 1:45 p.m. |
| CFS Flow | 62.81 | 65.95 | 61.62 | 62.37 | 57.75 | 54.63 |
| CFS Loss | 2.97 | 13.28 | 5.38 | 9.05 | 5.16 | .55 |
| CFS Loss/Mile | 2.09 | 9.35 | 3.79 | 6.37 | 3.63 | .39 |
| | | | | | | |
| Hydro Pond | | 3:00 p.m. | 3:00 p.m. | 2:23 p.m. | 2:47 p.m. | 2:45 p.m. |
| CFS Flow | 59.84 | 52.67 | 56.24 | 53.32 | 52.59 | 54.08 |
| CFS Loss | | | | | | |
| CFS Loss/Mile | | | | | | |

*This excludes assumed 4 CFS loss to Waggoners' irrigation ditch.

** This excludes actual measured losses due to Waggoners' irrigation ditch.

## COMPARISON OF BEDLOSS BLUE DOME

## TO POWER POND BEDLOSS 1988 AND 1989

T. S. SORENSON, P.E.

| DATE | AGENCY | BLUE DOME GUAGE cfs | WAGONER DIVERSION cfs | HYDRO POND cfs | BED LOSS cfs | SIMMONS WATER | |
|---|---|---|---|---|---|---|---|
| 6- 2-89 | BLM | 79.34 | 5.49 | 54.08 | 19.8 | Transfered | 25% |
| 5-23-89 | USGS | 77.5 | 6.26 | 46.8 | 24.4 | Transfered | 31 |
| 5-11-89 | BLM | 85.7 | 6.15 | 52.59 | 27.0 | Transfered | 31 |
| 4-24-89 | BLM | 77.58 | 4.0* | 53.32 | 20.3 | Transfered | 26% |
| 8-27-88 | IDWR | 68.02 | 3.64 | 35.10 | 29.3 | Diverted | 43% |
| 7-20-88 | BLM | 61.61 | 4.4 | 29.95 | 27.26 | Diverted | 49% |
| 7- 8-88 | D. SHENTON | 58.4 | 4.4 | 28.70 | 25.3 | Diverted | |

* Assumed

The following measurements were made on Birch Creek by the U.S. Geological Survey on May 23, 1989.

| STATION NAME | C.F.S MEASURED |
|---|---|
| Birch CrK. (upper Simmon's diversion) | 80.3 |
| Birch CrK. at midpoint between Simmon's weirs | 77.7 |
| Birch CrK. at Blue Dome (U.S.G.S. gage site) | 77.5 |
| Birch CrK. between Blue Dome & John Day grave site | 71.3 |
| Water being diverted through 3 ft cippoletti weir between preceeding site and following site equals 6.26 c.f.s. | |
| Birch CrK. at John Day grave site | 65.1 |
| Birch CrK. at Allotment Dividing Fence | 59.4 |
| Birch CrK. above first F&G "K" dam | 58.5 |
| Birch CrK. blw. fifteenth F&G "K" dam | 57.8 |
| Birch CrK. at Eight-mile Canyon Rd. (old U.S.G.S. gage site) | 50.0 |
| Birch CrK. abv. Power Company pond | 46.8 |

BIRCH CREEK MEASUREMENTS TAKEN AUG 27, 1988

taken by Steve McCormick

| MEASUREMENT SITE | LOCATION |
|---|---|
| A | U.S.G.S BLUE DOME GAGE |
| B | DIVERSION - DITCH W/ '4 FT CIPOLLITTI WEIR |
| C | ABOVE FENCED ALLOTMENT |
| D | ABOVE 1ST LOG DAM , APPROX '150 FT |
| E | OLD U.S.G.S GAGE AT EIGHT MILE CANYON ROAD |
| F | ABOVE DIVERSION POND FOR HYDRO PLANT |
| G | CANAL TO HYDRO PLANT AT HWY 28<br>10 FT RECT WEIR<br>(LINED CANAL) |

| SITE | DIST (mile) | FLOW (cfs) | REACH # | REACH DIST (mile) | LOSS IN REACH (cfs) | LOSS PER MILE (cfs/mile) |
|---|---|---|---|---|---|---|
| A | 0.00 | 68.02 | | | | |
| B | 0.70 | -3.64<br>64.38 | | | | |
| | | | 1 | 2.0 | 5.77 | 2.88 |
| C | 2.00 | 58.61 | | | | |
| | | | 2 | 1.8 | 7.71 | 4.28 |
| D | 3.80 | 50.90 | | | | |
| | | | 3 | 1.8 | 8.11 | 4.63 |
| E | 5.55 | 42.79 | | | | |
| | | | 4 | 1.5 | 7.33 | 4.89 |
| F | 7.05 | 35.46 | | ? / | | |
| G | | 35.10 | | | | |

TOTAL LOSS 29.92 cfs

# Flow Measurements by Don Shenton

## July or Aug 1988

| Site | Flow cfs | Flow loss cfs | Length miles | Loss per mile cfs |
|---|---|---|---|---|
| Blue Dome, USGS | 58.40 | | | |
| | | 7.7* | 1.2 | 6.4 |
| B | 46.30 | | | |
| | | 2.10 | 1.9 | 1.1 |
| C | 44.20 | | | |
| | | .90 | .75 | 1.2 |
| D | 43.30 | | | |
| | | 3.9 | .75 | 5.2 |
| E | 39.40 | | | |
| | | 5.8 | 1.3 | 4.5 |
| F | 33.60 | | | |
| | | 4.9 | 1.5 | 3.3 |
| Pond Entrance | 28.70 | | | |

* Wayman Diversion 9.4 cfs

**BIRCH CREEK**

7-22-88

Mike McQueen
Bureau of Land Management
7-21-88

| | | | |
|---|---|---|---|
| 7-21-88 | Lone Pine Cafe | 85.996 | |
| 7-20-88 | Blue Dome Guage | 61.61 | cfs |
| 7-20-88 | Indian Massacre (Below Waggoner Diversion) | 50.287 | cfs |
| 7-20-88 | Waggoner Ditch | 4.4 | cfs |
| 7-20-88 | Eight Mile Guage | 38.386 | |
| 7-20-88 | 150 yards above Hydro Park | 29.974 | |

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

WILLIAM S. HOLDEN
FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
MICHAEL D. CRAPO
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IDAHO FIRST NATIONAL BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)

R. VERN KIDWELL, OF COUNSEL

July 10, 1989

RECEIVED
JUL 17 1989
Department of Water Resources
Eastern District Office

Mr. Harold W. Jones
IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Boise, Idaho 83706

RE: Application for Transfer of
Birch Creek Ranches, Inc.

Dear Harold:

We appreciate receiving copies of the SRBA claims filed by Bill Simmons and have now had an opportunity to review them. There is obviously some remaining confusion respecting Right No. 32-0091 that will need to be resolved. Hopefully, this letter will contribute to a resolution. In any event, we have taken the liberty of sending a copy of this letter to Mr. Wagoner's attorney, Mr. Breck Barton, to Don Shenton, and to Bill Simmons for their review and input.

As you will recall, our office assisted Mr. Simmons during the transfer proceedings that took place in the mid-1970s which resulted in approved Transfer No. 2165. As I recall, Ernie Carlson at IDWR was very much involved, and his memory may be better than mine. I have reviewed our file and my notes in the matter and this letter represents the understanding that I thought we all had at that time.

The approved Transfer Application (which I believe was prepared by Ernie, and a copy of which is enclosed with this letter) does show, as one of the Simmons' rights, 32-0091, for .5 cfs with a priority of May 1, 1901. The source, as described in the approved transfer, is Birch Creek, and together with Right Nos. 32-0092 and 32-0093, 32-0091 was shown as being appurtenant to 240 acres of land on the east side of Birch Creek in Sections 29, 30 and 32, Township 10 North, Range 30 EBM.

Watermaster

7-18-89

Ron,

Ted Sorenson @

522-8069 would

like a call back today

about Birch Creek

situation.

TW

The 1977 transfer, No. 2165, resulted from a desire on Mr. Simmons' part, sometime after he purchased the ranch, to make the official water rights records conform to the actual practice. A review of the old Birch Creek Decree revealed that either a number of mistakes had been made when it was being formulated, or many changes had occurred since, probably some of both. We reviewed at that time several old decrees and an Abstract prepared by IDWR. The most recent Decree we reviewed appears to be one dated September 6, 1922 (a copy is enclosed, together with a copy of our copy of an Abstract we obtained at that time from IDWR).

The identification numbers assigned by IDWR to the water rights do not appear in our copy of the Decree, but they do on the Abstract, and by cross-referencing, we think we can correlate the numbers from the Abstract with the rights as described in the Decree. Right Nos. 0091, 0092, and 0093 appear to be rights awarded to Edward Kaufman and the source described for all three appears to be "the main channel of Pass Creek". However, the place of use (240 acres) appears to be largely east of Birch Creek.

As I recall, during the time we worked on the transfer for Mr. Simmons, he was concerned about the source being identified as Pass Creek. I think he understood that Clifton and Blanche Wagoner used all of the waters of Pass Creek and that Pass Creek never reached Birch Creek, at least during the irrigation season. He could find no evidence, either physical or historical, that Pass Creek water had ever been flumed across Birch Creek. To add to the questions, information in the records of Ben Wilding (then the Watermaster) indicated that Right No. 32-0091 was a Pass Creek right, but not 32-0092 and 32-0093 as indicated in the Decree.

We also found evidence of another Pass Creek right being appurtenant to land owned by Mr. Simmons in Sections 13, 14 and 24, Township 10 North, Range 29 East. This was Right No. 32-0088, decreed to Frank C. and Jesse Worthing in the amount of 1.0 cfs. This time, the Decree recited that the land would be irrigated with water from Birch Creek, but Pass Creek water would be allowed to flow into Birch Creek on an exchange basis. Again, Mr. Simmons was unable to discover any evidence

that this practice had ever obtained. At least for as far back as existing memories, it appeared all Pass Creek water was used by Clifton Wagoner or his predecessors and that such water never entered Birch Creek.

After discussions with Wagoners, a formal letter agreement was signed by the Simmonses and the Wagoners (a copy is enclosed), in which Simmonses released any claim they might have had to Right No. 32-0088, and Wagoners released any claims they might have had to Rights Nos. 32-0091, 32-0092, and 32-0093. The transfer was subsequently approved, showing Rights Nos. 32-0091, 32-0092 and 32-0093 as appurtenant to the Simmons' land, with the source being Birch Creek. We do not know if Wagoners applied for a transfer of Right No. 32-0088, but the letter agreement certainly contained Simmons' consent to do so.

When Bill Simmons filed the SRBA claims, Don Shenton assisted him. Apparently Don understood 32-0091 to be a Pass Creek right, and Bill indicated the Pass Creek water rights belonged to Clifton and Blanche Wagoner. As we understand it then, Mr. Simmons did not file a claim for 32-0091, but Wagoners did. Apparently no one has claimed 32-0088. This all appears to us to be inconsistent with the 1977 agreement and the approved transfer of the same year.

Mr. Simmons would like to have the matter correct. He still does not claim any right to Pass Creek waters, but if the point of diversion for 32-0091 has been properly transferred to Birch Creek, and 32-0088 should belong to the Wagoners, perhaps both should amend or revise their SRBA claims. The matter also needs to be resolved in connection with the pending Application for Transfer of Birch Creek Ranches, Inc., since the 1989 application is to transfer all of the rights listed in the 1977 transfer.

We note also that SRBA Claim No. A32-00061C, as filed by Mr. Simmons, is for a total of 1.6 cfs. That right was also adjusted by the 1977 transfer as a result of an agreement with other water users, and should probably be reduced to .4 cfs.

We will look forward to communications from anyone with light to shed on this matter. We also understand that

Ron Carlson has now visited with Don Shenton about a practical method for dealing with transmission losses to be assigned to the 18.6 cfs from the old points of diversion down to the proposed new point. We are anxious to hear from you on that item as well.

Yours very truly,

Kent W. Foster

#6936.00/srr

Enclosures

cc: Mr. Breck Barton
Mr. Don Shenton
Mr. Bill Simmons

June 23, 1989

Mr. Don Shenton, Watermaster
P.O. Box 33
Dubois, ID 83234

Dear Don:

On June 22, 1989 a conference was held in Idaho Falls to discuss the objections to the transfer of Bill Simmons' Birch Creek water rights to D & D via Ted Sorensen's power plant. At the conclusion of the conference, the protestants agreed to withdraw their protests if you and I could come up with a satisfactory method of assuring that Mac Wagoner's water rights can and will be delivered, undiminished, after the change. I agreed that I would get together with you, as soon as possible, and attempt to devise a procedure for properly regulating Wagoner's water rights, if the change proposed by Simmons is approved. My schedule gets really tight but possible days in June would be June 27th or 29th. In July the 5th or 7th are possible. Please let me know. There appears to be some urgency in getting this resolved.

Very truly yours,

RONALD D. CARLSON
Eastern Regional Manager

RDC:cw

32-0069/etc. - Birch Creek Ranches, Inc.

Eastside Second Floor Conference Room, State Office Bldg.
Idaho Falls, Idaho

Thursday, June 22, 1989 - 9:00 a.m.

Hearing Officer: Ron Carlson

| Name | Representing | Address |
|---|---|---|
| ✓ JOHN HANSEN | ✓ MARGERY BORE P.O. Box 72 DUBOIS, IDD 83423 | 683 N. CAPITOL IDAHO FALLS IDD 83402 |
| JIM DE MORDAUNT | P/D | P.O. Box 5, REXBURG ID 83440 |
| DAN KOTANSKY | BLM | 940 LINCOLN RD I.F. 83401 |
| LARRY DOUGHTY | BLM | " 529-1020 " |
| Ted Sorenson | Birch Power | 550 Linden Idaho Falls, Idaho 522-8069 |
| ✓ KENT W. FOSTER | BIRCH CREEK RANCHES, INC. | P.O. BOX 50150 523-8620 |
| MAC WAGONER | (Wagoner Ranch Water User) | P.O. Box 296 Dubois, Idaho 374-5415 |
| ✓ Brede Bentzen | Wagoner Ranch | P.O. Box 100 Ryckman 356-4980 |

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Mr. Blanche Wagoner
Star Route
Leadore, Id 83464

4. Article Number

0225

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X Mel Barnett

6. Signature — Agent

X

7. Date of Delivery

6-15-89

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

**SENDER INSTRUCTIONS**
**Print your name, address, and ZIP Code in the space below.**
- **Complete items 1, 2, 3, and 4 on the reverse.**
- **Attach to front of article if space permits, otherwise affix to back of article.**
- **Endorse article "Return Receipt Requested" adjacent to number.**




PENALTY FOR PRIVATE USE, $300

RETURN TO




Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE, #15
IDAHO FALLS, IDAHO 83402

Department of Water Resources
Eastern District Office

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, Id 83440

4. Article Number

0274

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and **DATE DELIVERED.**

5. Signature – Addressee

X Connie Bourne

6. Signature – Agent

X

7. Date of Delivery

REXBURG, ID JUN 25 8 PM 1988

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1980

DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

**SENDER INSTRUCTIONS**
**Print your name, address, and ZIP Code in the space below.**
- **Complete items 1, 2, 3, and 4 on the reverse.**
- **Attach to front of article if space permits, otherwise affix to back of article.**
- **Endorse article "Return Receipt Requested" adjacent to number.**

JUN 1[illegible] 1989

Department of Water Resources
Eastern District Office

U.S.MAIL

PENALTY FOR PRIVATE USE, $300

**RETURN TO**

Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE, #15
IDAHO FALLS, IDAHO 83402

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

N. Margery Barr
P.O. Box 92
Murtaugh Idaho 83343

4. Article Number
0273

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X N. Margery Barr

6. Signature — Agent
X

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

DELIVERED
JUN
14
1989
IDAHO

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

**SENDER INSTRUCTIONS**
**Print your name, address, and ZIP Code in the space below.**
- **Complete items 1, 2, 3, and 4 on the reverse.**
- **Attach to front of article if space permits, otherwise affix to back of article.**
- **Endorse article "Return Receipt Requested" adjacent to number.**



PENALTY FOR PRIVATE USE, $300

**RETURN**

Print Sender's name, address, and ZIP Code in the space below.

RECEIVED

JUN 15 1989

Department of Water Resources
Eastern District Office

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE, #15
IDAHO FALLS, IDAHO 83402

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

John Hansen
Atty at Law
P.O. Box 51718
Idaho Falls, Id 83405

4. Article Number

0276

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X Jane Arendts

7. Date of Delivery JAN 14 1998

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

**SENDER INSTRUCTIONS**

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- **Complete items 1, 2, 3, and 4 on the reverse.**
- **Attach to front of article if space permits, otherwise affix to back of article.**
- **Endorse article "Return Receipt Requested" adjacent to number.**




Department of Water Resources
Eastern District Office

PENALTY FOR PRIVATE USE, $300

RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Alan E. Parker
Atty at Law
P.O. Box 51718
Idaho Falls, Id 83405

4. Article Number

P 212

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X Dawn Arends

7. Date of Delivery

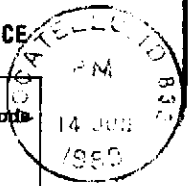
NOV 14 1986

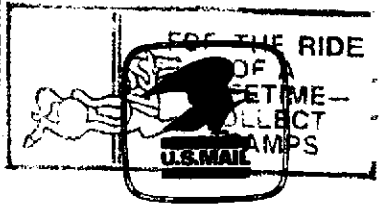
8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

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- **Complete items 1, 2, 3, and 4 on the reverse.**
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PENALTY FOR PRIVATE USE, $300

RETURN TO

RECEIVED

JUN 16 1989

Department of Water Resources
Eastern District Office

Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE, #15
IDAHO FALLS, IDAHO 83402

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1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

Kent W. Foster
Atty at Law
P.O. Box 50130
Idaho Falls, Id 83405

4. Article Number

0271

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and **DATE DELIVERED**.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

JUN 14 1989

8. Addressee's Address *(ONLY if requested and fee paid)*

32-0069/eto

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

**UNITED STATES POSTAL SERVICE**
**OFFICIAL BUSINESS**

**SENDER INSTRUCTIONS**
**Print your name, address, and ZIP Code in the space below.**
- **Complete items 1, 2, 3, and 4 on the reverse.**
- **Attach to front of article if space permits, otherwise affix to back of article.**
- **Endorse article "Return Receipt Requested" adjacent to number.**

RECEIVED

JUN 15 1989

Department of Water Resources
Eastern District Office

U.S.MAIL

PENALTY FOR PRIVATE USE, $300

**RETURN TO**

Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE, #15
IDAHO FALLS, IDAHO 83402

NAME AND ADDRESS OF SENDER

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE, #15
IDAHO FALLS, IDAHO 83402

Indicate type of mail
☐ Registered
☐ Insured
☐ COD
☒ Certified ☐ Express Mail

Check appropriate block for Registered Mail:
☐ With Postal Insurance
☐ Without Postal Insurance

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

| Line | Number of Article | Name, Street, and Post-Office Address | Postage | Fee | Handling Charge | Act. Value (If Regis.) | Insured Value | Due Sender If C.O.D. | R. R. Fee | S. D. Fee | S. H. Fee | Rest. Del. Fee / Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 0271 | Kent Foster PO Box 50130 97. | .25 | 85 | | | | | .90 | | | T32-0069 /etc |
| 2 | 0272 | Alan E. Barker PO. Box 51718 97. | .25 | .85 | | | | | .90 | | | |
| 3 | 0273 | M. Margery Lare PO Box 72 Dubois | .25 | .85 | | | | | .90 | | | |
| 4 | 0274 | Breck Barton, PO Box 100 Lebburg | .25 | .85 | | | | | .90 | | | |
| 5 | 0275 | Blanche Wagoner Star Rt Leadore | .25 | 85 | | | | | .90 | | | |
| 6 | 0276 | John Hansen PO Box 51718 97. | 25 | .85 | | | | | 90 | | | T32-0069 /etc |
| 7 | | | | | | | | | | | | |
| 8 | | | 6 X | $2.00 | | = $12.00 | | | | | | |
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U.S. POSTAL SERVICE IDAHO FALLS, IDAHO EAGLE ROCK ANNEX JUN 13 1989 USPS

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The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for nonnegotiable documents under Express Mail document reconstruction insurance is $50,000 per piece subject to a limit of $500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is $500. The maximum indemnity payable is $25,000 for Registered Mail, $400 for COD and $400 for Insured Mail. Special handling charges apply only to Third- and Fourth-Class parcels. Special delivery service also includes special handling service.

State of Idaho
DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

May 24, 1989

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

RE: Application for Transfer No. 32-0069/etc. BIRCH CREEK RANCHES

Mr. Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

Dear Protestant:

This is to acknowledge receipt of the protest, in behalf of Mac and Betty Wagoner, filed against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfers?
2. Does the change constitute an enlargement in the use of the original rights?
3. Will the proposed use under these transfers conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,

Harold W Jones

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

cc: IDWR - State Office

To Water Resources 6-14-89

The purpose of my protest is to see that none of my existing decreed water rights are not injured by Birch Creek Ranches transfering water down stream.

It is my belief that all transportation or bed losses should be Birch Creek Ranches Losses and no one else, as they are the only ones profiting by this transfer. Before non of the above

(over)

Water users should not be effected by this transfer.

Yours Truly,
Mac Wagoner
Water user —
Birch Creek —

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS.

Notice is hereby given that Birch Creek Ranches, Inc., Idaho Falls, Idaho, have applied to the Department of Water Resources for a change in the points of diversion and places of use of the waters of Birch Creek tributary to sinks and are recorded in the case of Agnes B. Reno, et al, -vs- J.R. Richards; et al, dated September 6, 1922 in 9th District Court, County of Fremont, and recorded as follows;

32-0067 decreed to Wood Livestock Co. (T2165), priority 9-10-1882 for the diversion of 3.20 cfs.

32-0090 decreed to C.B. Watts (T 2165), priority 5-10-1886 for the diversion of 1.60 cfs.

32-0093 decreed to Edward M. Kaufman (T 2165), priority 5-10-1886 for 1.60 cfs.

32-0068 decreed to Wood Livestock Co. (T 2165), priority 5-10-1887 for 3.20 cfs.

32-0089 decreed to C.B. Watts (T 2165), priority 5-10-1888 for 2.50 cfs.

32-0069 decreed to Wood Livestock Co. (T 2165), priority 5-10-1888 for 3.20 cfs.

32-0092 decreed to Edward M. Kaufman (T 2165), priority 5-10-1888 for 2.50 cfs.

32-0061 decreed to Jerome F. Reno (T 256 and 2165), priority 5-10-1888 for 0.40 cfs.

32-0091 decreed to Edward M. Kaufman (T 2165) from Pass Creek tributary to Birch Creek, priority 5-01-1901 for 0.50 cfs.

the above rights are diverted within the NWNE, NESE, SENE, Sec. 24, NENE, Sec. 14, NESW, Sec. 11, T 10N, R. 29E; SWSW, Sec. 29, NWNW, Sec. 32, T 10N R. 30E, B.M., Clark County for the irrigation of 960 acres from Apr. 1 to Nov. 1 within W½NW¼, SENW NESW, W½SE¼, SESE Sec. 11, SWSW, Sec. 12, W½NW¼, NWSW, Sec. 13, E½NE¼, Sec. 14, SESE, Sec. 24, NENE, Sec. 25, T. 10N, R. 29E; SWNW, W½SW¼, SESW, SWSE, Sec. 19, SWSW, Sec. 29, NE¼, N½NW¼, SENW, Sec. 30, W½E½, N½NW¼, SENW, NESW, Sec. 32, T 10N R. 30E.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the SESW, Sec. 34, T. 9N, R. 30 E, B.M., Clark County, and used to irrigate 960 acre within the SESW, W½SE¼, SESE, Sec. 12, T. 8N, R. 31E; N½SW¼, SE¼, Sec. 10, S½NW¼, SW¼. Sec. 11, N½NW¼, Sec. 14, E½SE¼, Sec. 1, T. 8N, R. 32E; E½SW¼, W½SE¼, Sec. 6, T. 8N, R. 33E. B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402, on or before July 3, 1989.

R. Keith Higginson
Director

PUBLISH: Thursday, June 15 and 22, 1989.

# Affidavit of Publication

STATE OF IDAHO } ss.
COUNTY OF TWIN FALLS }

JUL 13 1989
Eastern District
Department of Water Resources

JUN 13 1989
Department of Water Resources

No. 19942

I, Linda Copps McGuire, being first duly sworn upon oath, depose and say that I am Press Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for Two consecutive Weeks, commencing with the issue dated June 15, 1989, and ending with the issue dated June 22, 1989.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 28 day of June in the year of 1989, before me, a Notary Public, personally appeared Linda Copps McGuire, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Irma R. Fettman
Notary Public for Idaho
Residing at Twin Falls County
My commission expires: 5/19/94

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER NO. 32-0069/ETC. IN THE NAME OF BIRCH CREEK RANCHES, INC. | NOTICE OF CONFERENCE |

On April 19, 1989, Birch Creek Ranches Inc., filed with the Department of Water Resources an application to transfer various water rights. On May 22, 1989, the Department received protests against approval of said application from Blanche Wagoner; Breck Barton, Attorney at Law, in behalf of Mac and Betty Wagoner; and Alan E. Barber, Attorney at Law, in behalf of H. Margery Bare.

The Department has set the matter of protest for an administrative conference to be conducted at 9:00 a.m., Thursday, June 22, 1989, in the Second Floor Eastside Conference Room, Idaho State Office Building, 150 Shoup, Idaho Falls, Idaho.

Agenda items for this conference will include:

1. Identify spokesman and/or counsel representing the protestants.
2. Review of the application.
3. Identify issues of protests.
4. Designate date for identifying witnesses.
5. Designate target date for conducting administrative hearing if resolution is not possible during the conference.

The conference will be held in accordance with provisions of the adopted Rules of Practice and Procedure of the Department of Water Resources.

Dated this 15th day of June, 1989.

RONALD D. CARLSON
Eastern Regional Manager

June 7, 1989

The Times-News
P.O. Box 548
Twin Falls, Idaho 83303

Gentlemen:

We are re-submitting a legal notice to be published on June 15 and 22, 1989. This notice was originally published in your paper on May 4 and 11, 1989. Unfortunately, it was advertised incorrectly. As we had no way of checking the accuracy of this notice before it went to print, we therefore request it be re-advertised again at your expense.

To prevent future problems in this matter, **please submit a galley proof before the first date of publication.** If we have any correction, we will notify you; otherwise, assume the notice is correct. If the administrative procedures of your paper will not allow time for making corrections by submitting a galley proof, **we will be glad to review the notice with you by telephone prior to publication.** If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to this office by July 3, 1989. Your cooperation in this matter is greatly appreciated.

Sincerely,

Rita Bodell
Office Secretary

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS

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32-0061 decreed to Jerome F. Reno (T 256 and 2165), priority 5-10-1888 for 0.40 cfs

32-0091 decreed to Edward M. Kaufman (T 2165) from Pass Creek tributary to Birch Creek, priority 5-01-1901 for 0.50 cfs.

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS.

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the above rights are diverted within the NWNE, NESE, SENE, Sec. 24, NENE, Sec. 14, NESW, Sec. 11, T 10N, R. 29E; SWSW, Sec. 32, T 10N R. 30E, B.M., Clark County for the irrigation of 960 acres from Apr. 1 to Nov. 1 within W½NW¼, SENW, NESW, W½SE¼, SESE, Sec. 11, SWSW, Sec. 12, W½NW¼, SWSW, Sec. 13, E½NE¼, Sec. 14, NENE; SESE, Sec. 24, NENE; Sec. 25, T. 10N, R. 29E; SWNW, SWSE, Sec. 19, SESW, W½SW¼, SWSW, Sec. 29, NE¼, N½NW¼, W½E½, SENW, Sec. 30, W½NW¼, SENW, NESW, Sec. 32, T 10N R. 30E.

AS CHANGED AS FOLLOWS TO BE

The water will be diverted within the SESW, Sec. 34, T. 9N, R. 30 E. B.M., Clark County, and used to irrigate 960 acre within the SESW, W½SE¼, SESE, Sec. 12, T. 8N, R. 31E; N½SW¼, SE¼, Sec. 10, S½NW¼, SW¼, Sec. 11, N½NW¼, Sec. 14, E½SE¼, Sec. 1, T. 8N, R. 32E; W½SE¼, Sec. 6, T. 8N, R. 33E. B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402, on or before July 3, 1989.

R. Keith Higginson
Director

PUBLISH: Thursday, June 15 and 22, 1989.

The above rights are diverted within the NWNE, NESE, SENE, Sec. 24, NENE, Sec. 14, NESW, Sec. 11, T. 10N, R. 29E; SWSW, Sec. 29, NWNW, Sec. 32, T. 10N, R. 30E, B.M., Clark County, for the irrigation of 960 acres from Apr. 1 to Nov. 1 within W1/2NW1/4, SENW, NESW, W1/2SE1/4, SESE, Sec. 11, SWSW, Sec. 12, W1/2NW1/4, NWSW, Sec. 13, E1/2NE1/4, Sec. 14, SESE, Sec. 24, NENE, Sec. 25, T. 10N, R. 29E; SWNW, W1/2SW1/4, SESW, SWSE, Sec. 19, SWSW, Sec, 29, NE1/4, N1/2NW1/4, SENW, Sec. 30, W1/2E1/2, N1/2NW1/4, SENW, NESW, Sec. 32, T. 10N, R. 30E.

TO BE CHANGED AS FOLLOWS

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Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402, on or before JULY 3, 1989.

R. KEITH HIGGINSON
Director

Published TIMES NEWS, Twin Falls, ID on June 15 and 22, 1989.

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

WILLIAM S. HOLDEN
FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
MICHAEL D. CRAPO
JAMES D. HOLMAN
GAYLE A. SORENSON
DONALD L. HARRIS
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RANDALL B. REED
G. LANCE NALDER
J. MICHAEL WHEILER
MARIE T. FEELEY

IDAHO FIRST NATIONAL BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)

R. VERN KIDWELL, OF COUNSEL

May 31, 1989

RECEIVED
JUN - 1 1989
Department of Water Resources
Eastern District Office

Idaho State Department
of Water Resources
150 Shoup Avenue, Suite 15
Idaho Falls, Idaho 83402

Re: Application for Transfer - Birch Creek Ranches, Inc.
Water Rights No. 320067, 320090, 320093, 320068,
320089, 320069, 320092, 320061-C, and 320091

Gentlemen:

We are in receipt of the protests filed by H. Margery Bare, Mrs. Blanche Wagoner and Mac and Betty Wagoner.

It appears that the protest of Mrs. Bare will be solved rather quickly, but that it will be impossible to resolve the protests of the Wagoners without the necessity of a hearing. We therefore request that the hearing on these protests be scheduled as soon as possible.

Thank you for your consideration in this matter.

Yours very truly,

Kent W. Foster

KWF/cm
3384.00/0332h(10)

May 24, 1989

RE: Application for Transfer No. 32-0069/etc. BIRCH CREEK RANCHES

Mr. Breck Barton
Attorney at Law
P.O. Box 100
Rexburg, ID 83440

Dear Protestant:

This is to acknowledge receipt of the protest, in behalf of Mac and Betty Wagoner, filed against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfers?

2. Does the change constitute an enlargement in the use of the original rights?

3. Will the proposed use under these transfers conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

cc: IDWR - State Office

May 24, 1989

RE: Application for Transfer No. 32-0069/etc. BIRCH CREEK RANCHES

Mr. Alan E. Barber, Esq.
Hansen, Beard, Martin & St. Clair, Chartered
P.O. Box 51718
Idaho Falls, ID 83405-1718

Dear Mr. Barber:

This is to acknowledge receipt of the protest, in behalf of H. Margery Bare, filed against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfers?

2. Does the change constitute an enlargement in the use of the original rights?

3. Will the proposed use under these transfers conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

cc: IDWR - State Office

May 24, 1989

RE: Application for Transfer No. 32-0069/etc. BIRCH CREEK RANCHES

H. Margery Bare
P.O. Box 72
Dubois, ID 83423

Dear Protestant:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfers?

2. Does the change constitute an enlargement in the use of the original rights?

3. Will the proposed use under these transfers conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

cc: IDWR - State Office

May 24, 1989

RE: Application for Transfer No. 32-0069/etc. BIRCH CREEK RANCHES

Blanche Wagoner
Star Route
Leadore, ID 83464

Dear Ms. Wagoner:

This is to acknowledge receipt of the protest filed against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfers?

2. Does the change constitute an enlargement in the use of the original rights?

3. Will the proposed use under these transfers conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

cc: IDWR - State Office

May 23, 1989

RE: Application for Transfer No. 32-0069/etc.

Birch Creek Ranches
P.O. Box 50130
Idaho Falls, ID 83405

Dear Applicant:

Enclosed please find copies of protests filed against the above referenced application. You should be aware that the following are the items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?

2. Does the change constitute an enlargement in the use of the original right?

3. Will the proposed use under this transfer conflict with the local public interest?

The applicant must be prepared to present evidence and/or testimony addressing each of the three items should an additional hearing be necessary. You will be notified at a later date as to the time and place set for conference and/or hearing. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

cc: IDWR - State Office

Gayle Sorensen - hand picked up copies of protests 5-23-89

May 17, 1977

Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Gentlemen:

It has recently come to our attention, that certain of the water rights listed in the Birch Creek Decree (that is; the decree entered in the case of Agnes B. Reno, et al vs. J. R. Richards, et al, dated September 6, 1922, in the Ninth Judicial District Court of the State of Idaho, in and for the County of Fremont) have not, to our knowledge, ever been used on the lands to which the rights were made appurtenant under the decree, but rather, to our knowledge, have always been used in the manner set forth in this letter. It is our intention by this letter to explain how the water has been used, to release any claims which we may have on the specific water rights mentioned herein, which have been used on the others' property, and to consent to any formal transfer of such rights by the other so that the records will conform to the actual practice.

The first such right has been assigned Right No. 32-0088. The right was decreed to Frank C. and Jesse Worthing, in the amount of 1 cubic feet per second, with a priority date of July 29, 1907, and was decreed to land now owned by William T. and Theola Simmons. The decree indicates that this water right is from Pass Creek, a tributary of said Birch Creek. To the knowledge of the undersigned, this water has never been used in the manner described in the decree; but, in fact, all of the waters of Pass Creek have been used on land owned by Clifton and Blanche Waggoner. The undersigned, William T. and Theola Simmons hereby release any claim which they may have in and to said right, and hereby consent to the formal transfer by the Waggoners or their heirs, assigns or successors in interest of said water right to their lands at any time they might desire to do so.

Also, under said decree, certain portions of the water rights assigned No.s 32-0093, 32-0092, and 32-0091, are shown as being appurtenant to certain acres of land now owned by the undersigned, Clifton and Blanche Waggoner. To the knowledge of the undersigned, these rights have never been used on the lands now owned by Waggoners, and have always been used on lands now owned by William T. and Theola Simmons. The undersigned, Clifton Waggoner and Blanche Waggoner hereby release any claims in or to

the above numbered rights which they may now have by virtue of said decree, and hereby consent to the formal transfer by William T. and Theola Simmons, their heirs, assigns or successors in interest, of all or any portion of said water rights.

In Witness Whereof, we have hereunto set our hands and seals this 14th day of ~~May~~ June, 1977.

William T. Simmons
William T. Simmons

Clifton Waggoner
Clifton Waggoner

Theola Simmons
Theola Simmons

Blanche Waggoner
Blanche Waggoner

STATE OF IDAHO )
County of Bonneville ) ss.

On this 14th day of ~~May~~ June, 1977, before me, the undersigned, a Notary Public in and for said state, personally appeared William T. Simmons and Theola Simmons, his wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

Robert M. Saunders
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 3/10/79

(seal)

STATE OF IDAHO )
County of Bonneville ) ss.

On this 28th day of ~~May~~ June, 1977, before me, the undersigned, a Notary Public in and for said state, personally appeared Clifton Waggoner and Blanche Waggoner, his wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

Robert M. Saunders
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 3/10/79

(seal)

# Proof of Publication

# The Post-Register

RECEIVED
MAY 17 1989
Department of Water Resources
Eastern District Office

State of Idaho,
County of Bonneville } ss

I, Ted Delezene, first being duly sworn, depose and say: That I am the Foreman of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eight (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for two consecutive weeks, first publication having been made on the 4th day of May, 19 89, last publication having been made on the 11th day of May, 19 89, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Ted Delezene

Subscribed and sworn to before me, this 12th day of May, 19 89.

Notary Public

My commission expires September 30, 19 94.

B10

## NOTICE OF PROPOSED CHANGE OF WATER RIGHTS

Notice is hereby given that Birch Creek Ranches, Inc., Idaho Falls, Idaho, have applied to the Department of Water Resources for a change in the points of diversion and places of use of the waters of Birch Creek tributary to sinks and are recorded in the case of Agnes B. Reno, et al. -vs- J.R. Richards, et al, dated September 6, 1922 in 9th District Court, County of Fremont, and recorded as follows:

32-0067 decreed to Wood Livestock Co. (T 2165), priority 9-10-1882 for the diversion of 3.20 cfs.

32-0090 decreed to C.B. Watts (T 2165), priority 5-10-1886 for the diversion of 1.60 cfs.

32-0093 decreed to Edward M. Kaufman (T 2165), priority 5-10-1886 for 1.60 cfs.

32-0068 decreed to Wood Livestock Co. (T2165), priority 5-10-1887 for 3.20 cfs.

32-0089 decreed to C.B. Watts (T 2165), priority 5-10-1888 for 2.50 cfs.

32-0069 decreed to Wood Livestock Co. (T 2165), priority 5-10-1888 for 3.20 cfs.

32-0092 decreed to Edward M. Kaufman (T 2165), priority 5-10-1888 for 2.50 cfs.

32-0061 decreed to Jerome F. Reno (T 256 and 2165), priority 5-10-1888 for 0.40 cfs.

32-0091 decreed to Edward M. Kaufman (T 2165) from Pass Creek tributary to Birch Creek, priority 5-01-1901 for 0.50 cfs.

The above rights are diverted within the NWNE, NESE, SENE, Sec. 24, NENE, Sec. 14, NESW, Sec. 11, T. 10N, R. 29E; SWSW, Sec. 29, NWNW, Sec. 32 T. 10N, R. 30E, B.M., Clark County, for the irrigation of 960 acres from Apr. 1 to Nov. 1 within W1/2NW1/4, SENW, NESW, W1/2SE1/4, SESE, Sec. 11, SWSW, Sec. 12, W1/2NW1/4, NWSW, Sec. 13, E1/2NE1/4, Sec. 14, SESE, Sec. 24, NENE, Sec. 25, T. 10N, R. 29E; SWNW, W1/2SW1/4, SESW, SWSE, Sec. 19, SWSW, Sec. 29, NE1/4, N1/2NW1/4, SENW, Sec. 30, W1/2E1/2, N1/2NW1/4, SENW, NESW, Sec. 32, T. 10N, R. 30E.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the SESW, Sec. 34, T. 9N, R. 30E, B.M., Clark County, and used to irrigate 960 acres within the SESW, W1/2SE1/4, SESE, Sec. 12, T. 8N, R. 31E; N1/2SW1/4, SE1/4, Sec. 10, S1/2NW1/4, SW1/4, Sec. 11, N1/2NW1/4, Sec. 14, E1/2SE1/4, Sec. 1, T. 8N, R. 32E; E1/2SW1/4, W1/2SE1/4, Sec. 6, T. 8N, R. 33E. B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402, on or before May 22, 1989.

R. KEITH HIGGINSON
Director

Published: May 4, 11, 1989

**TRIBUNE PUBLISHING COMPANY, INC.**
The Lewiston Morning Tribune
505 C St., P.O. Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 05/17/89 INVOICE No. L0015214

Account No. 34660

Description 61844LEGAL

## LEGAL ADVERTISING
### INVOICE

Times 2 Lines 77

Tab Lines

SOLD TO:

DEPT. OF WATER RESOURCES
150 SHOUP AVE. SUITE 15
IDAHO FALLS
ID 83402

$ 79.01

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
*Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only.*

61844

**Legal Notice**
**NOTICE OF PROPOSED CHANGE OF WATER RIGHTS**

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The above rights are diverted within the NWNE, NESE, SENE, Sec. 24, NENE, Sec. 14, NESW, Sec. 11, T. 10N. R. 29E; SWSW, Sec. 29, NWNW, Sec. 32, T. 10N, R. 30E, B.M., Clark County, for the irrigation of 960 acres form Apr. 1 to Nov. 1 within W½NW¼, SENW, NESW, W½SE¼, SESE, Sec. 11, SWSW, Sec. 12, W½NW¼, NWSW, Sec. 13, E½NE¼, Sec. 14, SESE, Sec. 24, NENE, Sec. 25, T. 10N, R. 29E; SWNW, W½SW¼, SESW, SWSE, Sec. 19, SWSW, Sec. 29, NE¼, N½NW¼, SENW, Sec. 30, W½E½, N½NW¼, SENW, NESW, Sec. 32, T. 10N, R. 30E.

**TO BE CHANGED AS FOLLOWS**

The water will be diverted within the SESW, Sec. 34, T.9N, R. 30E, B.M., Clark County, and used to irrigate 960 acres within the SESW, W½SE¼, SESE, Sec. 12, T. 8N, R. 31E.; N½SW¼, SE¼, Sec. 10, S½NW¼, SW¼, Sec. 11, N½NW¼, Sec. 14, E½SE¼, Sec. 1, T. 8N, R. 32E; E½SW¼, W½SE¼, Sec. 6, T. 8N, R. 33 E.B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402, on or before May 22, 1989.

R. KEITH HIGGINSON
Director

RB

# AFFIDAVIT OF PUBLICATION

RECEIVED
MAY 17 1989
Department of Water Resources
Eastern District Office

STATE OF IDAHO, ss.
County of Nez Perce

Sue Baumeister being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established paper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the

NOTICE OF PROPOSED CHANGE

attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 050489 or once a WEEKS for 2 consecutive WEEKS, the first publication thereof being on the 050489, and the last publication thereof being on the 051289, and said NOTICE OF PROPOSED CHANGE was so published in the regular and entire issue of said newspaper and not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Sue Baumeister

SUBSCRIBED AND SWORN BEFORE ME THIS THE 12 day of May 1989

Notary Public in and for the State of Idaho, residing at Lewiston, therein.

of counsel
John M. Sharp

Eugene L. Bush
(1928-1986)
Arthur L. Smith
(1916-1988)

W. Joe Anderson
Edward W. Pike
Douglas R. Nelson
Gregory S. Anderson
Dale W. Storer
Blake G. Hall
Dona Adams Pike
Joseph C. Burgess
Scott R. Hall
Anne M. O'Brien
Joel E. Tingey

# Anderson, Pike & Bush

ATTORNEYS AT LAW

490 MEMORIAL DRIVE
POST OFFICE BOX 51630
IDAHO FALLS, IDAHO 83405-1630
TELEPHONE (208) 522-3001
FAX (208) 523-7254

May 16, 1989

Mr. Ron Carlson
State of Idaho
Department of Water Resources
150 Shoup Avenue
Idaho Falls, ID 83402

RE: Bare v. Sorenson

Dear Mr. Carlson:

I previously spoke with you and wrote to you regarding the application for transfer of water right between Marjorie Bare and Ted Sorenson. Because of a potential conflict of interest, we have referred this matter to John Hansen. Mr. Hansen's address is HANSEN, BEARD, MARTIN & ST. CLAIR, 683 North Capital, P.O. Box 51718, Idaho Falls, ID 83405-1718. His telephone number is 523-5171. Please refer all future correspondence and notification regarding the application for transfer of water right to Mr. Hansen. He will be representing Mrs. Bare.

Should you have any questions, please notify.

Very truly yours,

ANDERSON, PIKE & BUSH

Scott R. Hall

BARE/SRHC/ld

RECEIVED
MAY 17 1989
Department of Water Resources
Eastern District Office

RECEIVED

MAY 12 1989

Department of Water Resources
Eastern District Office

# The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707

## LEGAL ADVERTISING INVOICE

| Amount Due |
|---|
| $9.40 |

| Account Name | Account Number |
|---|---|
| Idaho Department of Water Resources (Eastern) | #100564 |

| Address | City/State | Zip |
|---|---|---|
| 150 Shoup Avenue, Suite 15 | Idaho Falls, ID | 83402 |

| Ordered By | P.O. Number | Rate | Run Dates |
|---|---|---|---|
| Rita Bodell | | NT | 1989 May 4, 11 |

| Identification | Estimated Inches | Real Inches |
|---|---|---|
| Proposed Change of Water Rights | | |

| Number of Affidavits Requested | Legal Number |
|---|---|
| 1 | #2538 |

**NOTICE OF PROPOSED CHANGE OF WATER RIGHTS**

Notice is hereby given that Birch Creek Ranches, Inc., Idaho Falls, Idaho, have applied to the Department of Water Resources for a change in the points of diversion and places of use of the waters of Birch Creek tributary to sinks and are recorded in the case of Agnes B. Reno, et al. -vs- J.R. Richards, et al, dated September 6, 1922 in 9th District Court, County of Fremont, and recorded as follows:

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Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho 83402, on or before May 22, 1989.

R. KEITH HIGGINSON
Director

Pub. May 4, 11, 1989

2538

STATE OF IDAHO )
) ss.
COUNTY OF ADA )

Debbie Richards, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for 2

☒ consecutive weekly ☐ consecutive daily ☐ single ☐ odd skip

insertion(s) beginning with the issue of May 4, 19 89

and ending with the issue of May 11, 19 89

Debbie Richards

Subscribed and sworn to before me this 11th

day of May, 19 89

Notary Public for Idaho, Residing at Boise, Idaho

5-12-89

# MEMO

**DONALD W. SHENTON, WATERMASTER**

To Harold Jones

My Endoresment is Attached as you Requested.

Thanks

Donald W. Shenton

RECEIVED
MAY 11 1989
Department of Water Resources
Eastern District Office

APPLICATION FOR TRANSFER OF

WATER RIGHT NO. Several of Birch Creek Ranches INC.

WATER DISTRICT 32-D

WATERMASTER Donald W. Shenton

DATE: May 10, 1989

COMMENTS: See attachments

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X I do endorse approval of this change.

___ I do not endorse approval of this change.

I recommend the following conditions of approval:

See Conditions on Attached

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Donald W. Shenton
Watermaster

RECEIVED
MAY 11 1989
Department of Water Resources
Eastern District Office

Attachment - Watermasters Recomendation Form for Transfer of Birch Creek Ranches

It should be noted that Transfer #32-0091 for waters from Pass Creek, in the amount of 0.50 c.f.s. possibly could be in question, as to ownership or periods of use, if in fact it has ever been used by the applicant. Some data that might be available could be obtained concerning this right. Also to be considered, if this right is proven valid, would the water be available?

It would be my recomendation that a single wing concrete weir be put in Birch Creek approximately 1/2 the distance from the Simmons upper stream point of diversion (A) and the Simmons lower point of diversion (C) (farthest down stream). We will call the weir location point (B), which will be the approxiamety 1/2 the distance from Point A to Point C. This weir will give the approximate average loss of all the Simmons points of diversion in this reach of stream, of which Simmons has a total of (7) points of diversion.

It would further be my recommendation that a single wing concrete weir be installed in Birch Creek at point (C) so as to determine accurately the stream bed losses through the stretch that Simmons diverts water from Birch Creek.

I would further recommend that the Reno Ditch weir located on the bridge on Hiway 28 be used as the location (D) to determine the stream bed losses in the lower section of Birch Creek between points (C) and (D).

I would further recommend that the water master be directed to read these three (3) weirs each 10 days and determine the losses in these reaches for the total losses from point (A) to point (D) less the Mac Wagoner diverted amount. The percent of channel loss should be calculated and charged against the Simmons water being proposed for transfer. The suggested dates for the watermaster to read these weirs and make calculations and whatever adjustment should be the 1st, 10th, and 20th, day of each month during the irrigation season.

The charges for the additional trips, mileage, time, calculations, and adjustments to be made each 10 days, should be charged against the benefactor of the transfer. The charges for the extra work and cost should be $75.00 per trip or $1,300.00 annually.

The historic stream bed losses from the Blue Dome U.S.G.S. Station and the Reno Ditch diversion appear to amount 34% to 50% loss. Last year stream bed losses amounted to near 45%, with the D and D Ranches waters and Wilding waters being diverted into the Reno Ditch between the above points. With Birch Creek having such an irratic loss rate from month to month and year to year, the above recommendations should be put on the I.D.W.R. transfer as the conditions to be met, before a transfer is approved.

This is the only way that good accurate stream bed losses can be permanently monitored, so that the existing water right holders will not be injured by this transfer.

If the above conditions are met and existing water rights are not injured, I would endorse this transfer.

Donald W Shenton

Donald W. Shenton
Watermaster, Water Dist. #32-D

Date May 10, 1989

April 26, 1989

Donald Shenton
Water District #32-D
Box 33
Dubois, ID 83423

RE: Application for Transfer

Dear Watermaster:

Please find enclosed a copy of the above referenced application and a watermaster recommendation form. Please review the application and complete the form, returning them to this office as soon as possible.

Thank you for your cooperation in this matter.

Respectfully submitted,

Harold Jones
Water Rights Supervisor

HJ/rb
Enclosure

April 24, 1989

Birch Creek Ranches, Inc.
Box 50130
Idaho Falls, ID 83405

RE: Application for Transfer

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your water right permit. This office is currently in the process of advertising the application in the Post-Register. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our state office in about five weeks. State office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

April 26, 1989

~~IDAHO STATESMAN~~ Post Reg
Box 40
Boise, ID 83707

Gentlemen:

Enclosed you will find legal notices which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notices on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before MAY 22,1989.

Respectfully submitted,

Rita Bodell
Office Secretary

Enclosure

Affi rec'd 5-17-89 OK

April 26, 1989

IDAHO STATESMAN
Box 40
Boise, ID 83707

Gentlemen:

Enclosed you will find legal notices which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notices on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before MAY 22,1989.

Respectfully submitted,

Rita Bodell
Office Secretary

Enclosure

ads OK.

April 26, 1989

Lewiston Morning Tribune
P.O. Box 957
Lewiston, ID 83501

Gentlemen:

Enclosed you will find legal notices which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notices on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before MAY 22,1989.

Respectfully submitted,

Rita Bodell
Office Secretary

Enclosure

Off Acc.
5-17-89
O.K.

April 26, 1989

Times News
P.O. Box 548
Twin Falls, ID 83301

Gentlemen:

Enclosed you will find legal notices which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notices on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before MAY 22,1989.

Respectfully submitted,

Rita Bodell
Office Secretary

Enclosure

5/24/89

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS

Notice is hereby given that Birch Creek Ranches, Inc., Idaho Falls, Idaho, have applied to the Department of Water Resources for a change in the points of diversion and places of use of the waters of Birch Creek tributary to sinks and are recorded in the case of Agnes B. Reno, et al. -vs- J.R. Richards, et al, dated September 6, 1922 in 9th District Court, County of Fremont, and recorded as follows:

32-0067 decreed to Wood Livestock Co. (T 2165), priority 9-10-1882 for the diversion of 3.20 cfs.

32-0090 decreed to C.B. Watts (T 2165), priority 5-10-1886 for the diversion of 1.60 cfs.

32-0093 decreed to Edward M. Kaufman (T 2165), priority 5-10-1886 for 1.60 cfs.

32-0068 decreed to Wood Livestock Co. (T2165), priority 5-10-1887 for 3.20 cfs.

32-0089 decreed to C.B. Watts (T 2165), priority 5-10-1888 for 2.50 cfs.

32-0069 decreed to Wood Livestock Co. (T 2165), priority 5-10-1888 for 3.20 cfs.

32-0092 decreed to Edward M. Kaufman (T 2165), priority 5-10-1888 for 2.50 cfs.

32-0061 decreed to Jerome F. Reno (T 256 and 2165), priority 5-10-1888 for 0.40 cfs

32-0091 decreed to Edward M. Kaufman (T 2165) from Pass Creek tributary to Birch Creek, priority 5-01-1901 for 0.50 cfs.

The above rights are diverted within the NWNE, NESE, SENE, Sec. 24, NENE, Sec. 14, NESW, Sec. 11, T. 10N, R. 29E; SWSW, Sec. 29, NWNW, Sec. 32, T. 10N, R. 30E, B.M., Clark County, for the irrigation of 960 acres from Apr. 1 to Nov. 1 within W1/2NW1/4, SENW, NESW, W1/2SE1/4, SESE, Sec. 11, SWSW, Sec. 12, W1/2NW1/4, NWSW, Sec. 13, E1/2NE1/4, Sec. 14, SESE, Sec. 24, NENE, Sec. 25, T. 10N, R. 29E; SWNW, W1/2SW1/4, SESW, SWSE, Sec. 19, SWSW, Sec, 29, NE1/4, N1/2NW1/4, SENW, Sec. 30, W1/2E1/2, N1/2NW1/4, SENW, NESW, Sec. 32, T. 10N, R. 30E.

TO BE CHANGED AS FOLLOWS

The water will be diverted within the SESW, Sec. 34, T. 9N, R. 30E, B.M., Clark County, and used to irrigate 960 acres within the SESW, W1/2SE1/4, SESE, Sec. 12, T. 8N, R. 31E; N1/2SW1/4, SE1/4, Sec. 10, S1/2NW1/4, SW1/4, Sec. 11, N1/2NW1/4, Sec. 14, E1/2SE1/4, Sec. 1, T. 8N, R. 32E; E1/2SW1/4, W1/2SE1/4, Sec. 6, T. 8N, R. 33E. B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 150 Shoup, Suite 15, Idaho Falls, Idaho, 83402, on or before May 22, 1989.

R. KEITH HIGGINSON
Director

Published Post Register, Idaho Falls, on May 4 and 11, 1989.

3/83

IDENT. NO. _____

# IDAHO DEPARTMENT OF WATER RESOURCES

## WATER RIGHT DATA ENTRY LOG

| Initials | Date | Item |
|---|---|---|
| CW | 4-21-89 | Original form entered |
| " | " | |
| | | Edit Report Correct |
| | | Date Protested |
| | | Date of Hearing |
| | | Date Approved/Denied (Proof due date, stage and/or status, conditions of approval, water district) |
| | | Record Verified |
| | | Amendment Approved |
| | | Extension Approved |
| | | Partial Proof |
| | | Proof Complete |
| | | Field Exam Received |
| | | Field Exam Accepted and changes entered |
| | | License Updated |
| | | Transfer Updated |
| | | Keypunched by State Office |
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LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
IDAHO FIRST NATIONAL BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

WILLIAM S. HOLDEN
FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
MICHAEL D. CRAPO
JAMES D. HOLMAN
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
G. LANCE NALDER
J. MICHAEL WHEILER
MARIE T. FEELEY

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)

R. VERN KIDWELL, OF COUNSEL

April 19, 1989

RECEIVED
APR 19 1989
Department of Water Resources
Eastern District Office

Idaho Department of Water Resources
150 Shoup Avenue, Suite 15
Idaho Falls, Idaho 83402

Gentlemen:

We are enclosing with this letter an Application for Transfer of Water Right on behalf of Birch Creek Ranches, Inc., together with our check in the amount of fifty dollars ($50.00) for the filing fee.

We have also enclosed an alternative set of pages four through twenty-one of the application because in reviewing Transfer No. 2165, it appears that a page entitled "Land List Attachment" was attached which is or may be interpreted to be different from the other land list contained in the approved transfer document. It is our hope that either the Part 2 portions enclosed in the transfer or the alternative Part 2 pages will be satisfactory for your purposes.

In the preparation of the application, we have met and discussed how it might be done with Mr. Ernest Carlson and it was his suggestion that we enclose the alternative pages.

We are also in the process of obtaining statements from the contract seller and the mortgagee and as soon as those have been signed, we will forward them to you.

If there is anything we can do to assist in expediting the processing of this Application for Transfer, we would be happy to respond. Thank you for your kind attention to this matter.

Yours very truly,

Kent W. Foster

Kent W. Foster

#6936.00/srr

of counsel
John M. Sharp

Eugene L. Bush
(1928-1986)
Arthur L. Smith
(1916-1988)

W. Joe Anderson
Edward W. Pike
Douglas R. Nelson
Gregory S. Anderson
Dale W. Storer
Blake G. Hall
Dona Adams Pike
Joseph C. Burgess
Scott R. Hall
Margaret B. Hinman
Anne M. O'Brien
Joel E. Tingey

*Anderson, Pike & Bush*
ATTORNEYS AT LAW

490 MEMORIAL DRIVE
POST OFFICE BOX 51630
IDAHO FALLS, IDAHO 83405-1630
TELEPHONE (208) 522-3001
FAX (208) 523-7254

April 18, 1989

Mr. Ron Carlson
State of Idaho
Department of Water Resources
150 Shoup Avenue
Idaho Falls, ID 83401

Dear Mr. Carlson:

Our offices have been retained by Margery Bare regarding property to which she is the beneficial interest holder. It is our understanding that Ted Sorenson has made application with the Department of Water Resources for a change in location of diversion.

In 1975, Mr. and Mrs. Bare entered into a Sales Contract with William T. Simmons and Theola Simmons with regard to the real property in question. I have attached a copy of the Notice of Contract of Sale which was recorded with the Clark County Recorder as instrument number 42322. Pursuant to the terms of the Contract, the Bares retain title until the Contract is paid in full at which time the escrow agent is instructed to deliver clear title to the Simmons. The Contract has not yet been paid off and will continue until approximately the turn of the century.

The Simmons' have assigned their Contract to Mr. Sorenson. As a result of Mr. Sorenson's application, we would request a copy of the rules and regulations together with the procedures employed by the Department of Water Resources in determining whether or not a point of diversion may be permitted and to what extent the fee title owner of the property has any determination or rights with regard to the application for change in point of diversion.

We are currently reviewing the matter to determine whether or not it is in Mrs. Bare's interest to have the point of diversion changed and we will review the matter in short term and notify you with regard to whether we have an objection or not.

We would request that any hearings, meetings, motions or other documentation which you receive regarding Mr. Sorenson's application for change in point of diversion be brought to our attention so that we may appear at those hearings or reply to any documentation or applications in order for us to protect Mrs. Bare.

Should you have any questions, please notify.

Very truly yours,

Scott R. Hall

Enclosure

CARLSON/SRHC/ld

. . . . . APPLICATION FOR PERMIT
NO. 32-07252

| | |
|---|---|
| 02/12/1997 | Application filed |
| 04/03/1997 | Advertised statewide |
| 04/10/1997 | Date of Protest 04/21/1997 |
| 08/07/1997 | NOTICE OF CORRECTION Advertised statewide |
| 08/14/1997 | Date of Protest 08/25/1997 |

PROTESTS RECEIVED

| | |
|---|---|
| 04/16/1997 | LAVAR NEWMAN<br>C/O BLAIR GROVER |
| 04/18/1997 | MUD LAKE WATER USERS<br>C/O GARTH SODERQUIST |
| 04/21/1997 | IDAHO POWER COMPANY<br>C/O JAMES C TUCKER WITHDRAWN |

PETITION TO INTERVENE

| | |
|---|---|
| 05/16/1997 | TWIN FALLS CANAL CO & NORTH SIDE CANAL CO<br>C/O GARY D. SLETTE |

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| | |
|---|---|
| 05/27/1997 | PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES |
| 05/30/1997 | ORDER GRANTING PETITION FOR DISQUALIFICATION OF IDWR EMPLOYEES |
| 06/05/1997 | ORDER GRANTING PETITION TO INTERVENE |
| 07/07/1997 | ORDER APPOINTING HEARING OFFICER |
| 07/21/1997 | ORIGINAL FILE SENT TO S.O. BY CERTIFIED MAIL |
| 07/21/1997 | MEMO TO FILE INDICATING WHICH ATTORNEY |

Ron C.

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

COPY

| | | |
|---|---|---|
| IN THE MATTER OF APPLICATION FOR PERMIT NO. 32-07252 (formerly No. 31-07646) IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | ) | **ORDER APPOINTING HEARING OFFICER** |

This matter having come before the Idaho Department of Water Resources (department), as a result of a Motion for Disqualification of Hearing Officer, the department makes the following Order:

On May 27, 1997, Kent W. Foster on behalf of Birch Creek Ranches (Birch Creek) filed a Petition for Blanket Disqualification of IDWR Employees (petition) with the Department of Water Resources (department).

On May 30, 1997, the department issued an order granting the petition but did not specifically designate the hearing officer to be appointed, since the hearing officer determination had not yet been made. The department has since determined a hearing officer to be designated in this order.

**ORDER**

IT IS THEREFORE, HEREBY ORDERED that Peter Anderson, Idaho Deputy Attorney General, Natural Resources Division, is appointed to serve as the hearing officer in this contested case proceeding, pursuant to IDAPA Rule 37.01.01.410, and is hereby authorized to hear this matter on behalf of the Idaho Department of Water Resources in 373.01.01.413, and the provisions of chapter 52, title 67, Idaho Code, and IDWR's Rules of Procedure.

> Pursuant to section 67-5252, Idaho Code, hearing officers are subject to disqualification for bias, prejudice, interest, substantial prior involvement in the case other than as a presiding officer, status as an employee of the agency, lack of professional knowledge in the subject matter of the contested case, or any other reason provided by law or for any cause for which a judge is or may be disqualified. Any party may promptly petition for the disqualification of a hearing officer after receiving notice that the officer will preside at a contested case or upon discovering facts establishing grounds for disqualification, whichever is later. Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, without awaiting the designation of a presiding officer. (emphasis added).

IT IS FURTHER ORDERED that all other motions pending in this matter, and the setting of all prehearing deadlines and a hearing date shall be addressed by the newly appointed hearing officer.

Dated this 30th day of July, 1997.

KARL J. DREHER
Director

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of July, 1997, I mailed a true and correct copy of the foregoing **ORDER APPOINTING HEARING OFFICER** on the following persons listed below by U.S. mail, postage prepaid and addressed as follows:

Norman C. Young
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706

Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN
& CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405

George Petersen, Esq.
PETERSEN MOSS OLSEN
MEACHAM & CARR
485 "E" Street
Idaho Falls, ID 83402

Breck H. Barton, Esq.
BRECK BARTON & ASSOC., PA
P.O. Box 100
Rexburg, ID 83440

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

Blair J. Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442

Gary D. Slette, Esq.
ROSHOLT ROBERTSON &
TUCKER CHRTD
142 3rd Ave, North
P.O. Box 1906
Twin Falls, ID 83303-1906

Deborah Drew-Ellis
Legal Secretary

SD-0601-2 Water Right Number: 31-07646

END OF DATA FIRST PAGE

| Office | Reg | Location | Type Description | Date |
|---|---|---|---|---|
| ECLERK | E | DRAWER1 | In Advertising | 07/14/97 |
| VAULT | C | SHELVES | Renumbered | 07/11/97 |
| ECLERK | E | HOLD | Protested | 04/28/97 |
| ECLERK | E | DRAWER1 | In Advertising | 03/31/97 |

RECEIVED
JUL 2 1 1997
Department of Water Resources
Eastern Region

(Enter=Cont) (GOLD4=Prev Scr) (GOLD5=Next Scr) (GOLD6=End of Data) (GOLD8=Exit)

7/17

Please file attached! Peter Anderson will be attorney on this matter.

Thanks
Dawn

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this [redacted] to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "*Return Receipt Requested*" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Debbie Ellis
ID DEPT OF WATER RESOURCES
1301 N ORCHARD STREET
BOISE ID 83706-2237

4a. Article Number
02

4b. Service Type
☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
11-22-94

5. Received By: *(Print Name)*

6. Signature: *(Addressee or Agent)*
X

8. Addressee's Address *(Only if requested and fee is paid)*

PS Form **3811**, December 1994 Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G

• Print your name, address, and ZIP Code in this box •

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

RECEIVED
JUL 24 1997
Department of Water Resources
Eastern Region

**Name and Address of Sender**

Indicate type of mail
- ☐ Registered
- ☐ Insured
- ☐ COD
- ☒ Certified
- ☐ Return Receipt for Merchandise
- ☐ Int'l Recorded Del.
- ☐ Express Mail

Check appropriate block for Registered Mail:
- ☐ With Postal Insurance
- ☐ Without Postal Insurance

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

*Postmark and Date of Receipt*

| Line | Article Number | Name of Addressee, Street, and Post Office Address | Postage | Fee | Handling Charge | Act. Value (If Regis.) | Insured Value | Due Sender If COD | R. R. Fee | S. D. Fee | S. H. Fee | Rest. Del. Fee / Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 02 | File #32-7252. Birch Creek. To: Debbie Ellis State office | $ 5.00 | 1.35 | | | | | 1.10 | | | Vault 32-7252 |
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| Total Number of Pieces Listed by Sender | Total Number of Pieces Received at Post Office | Postmaster, Per *(Name of Receiving Employee)* |
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The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is $50,000 per piece subject to a limit of $500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is $500. The maximum indemnity payable is $25,000 for registered mail, sent with optional postal insurance. See *Domestic Mail Manual* R900, S913, and S921 for limitations of coverage on insured and COD mail. See *International Mail Manual* for limitations of coverage on international mail. Special handling charges apply only to third and fourth class parcels.

Gary D. Slette
ROSHOLT, ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, Idaho 83303-1906
Telephone: (208) 734-0700
07119797.GDS/ae

RECEIVED
JUL 15 1997
Department of Water Resources
Eastern Region

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

| | |
|---|---|
| In re:<br>Application for Permit No. 31-07646<br>Applicant: Birch Creek Ranches, L.L.C. | **NOTICE OF SERVICE OF DISCOVERY** |

TO: IDAHO DEPARTMENT OF WATER RESOURCES:

YOU WILL PLEASE TAKE NOTICE that Intervenors Twin Falls Canal Company ("TFCC), Northside Canal Company ("NSCC") and Protestant Owsley Canal Company ("Owsley") by and through their attorneys of record, the firm of Rosholt, Robertson & Tucker, served Interrogatories, Requests for Production and Requests for Admission on the Applicant, Birch Creek Ranches, on the 11th day of July, 1997, by hand depositing the same in the United States mail, postage prepaid, in an envelope, addressed to Kent W. Foster its attorney of record.

DATED this 11 day of July, 1997.

ROSHOLT, ROBERTSON & TUCKER

By: _____
Gary D. Slette

CERTIFICATE OF SERVICE

The undersigned certifies that on the 11 day of July, 1997, he caused a true and correct copy of the foregoing NOTICE OF SERVICE OF DISCOVERY to be served upon the following persons in the following manner:

| | | |
|---|---|---|
| Kent W. Foster<br>Holden, Kidwell, Hahn & Crapo, P.L.L.C.<br>P.O. Box 50130<br>Idaho Falls, ID 83405-0130 | [ ]<br>[ ]<br>[✓]<br>[ ] | Hand Deliver<br>Overnight Courier<br>U.S. Mail<br>Facsimile Transmission |
| Blair J. Grover<br>Grover & Fairchild<br>215 Farnsworth Way<br>P.O. Box 36<br>Rigby, ID 83442-0036 | [ ]<br>[ ]<br>[✓]<br>[ ] | Hand Deliver<br>Overnight Courier<br>U.S. Mail<br>Facsimile Transmission |
| George C. Petersen, Jr.<br>Petersen, Moss, Olsen, Carr,<br>Eskelson & Hall<br>485 "E" Street<br>Idaho Falls, ID 83402 | [ ]<br>[ ]<br>[✓]<br>[ ] | Hand Deliver<br>Overnight Courier<br>U.S. Mail<br>Facsimile Transmission |



Gary D. Slette

ROSHOLT, ROBERTSON & TUCKER
Chartered
ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
JOHN K. SIMPSON
PATRICK D. MADIGAN
TIMOTHY J. STOVER
NORMAN M. SEMANKO

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

Boise Office
1221 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

JUL 14 1997
Department of Water Resources

RECEIVED
JUL 15 1997
Department of Water Resources
Eastern Region

Date July 11, 1997

X Before the Id. Dept. of Water Resources
~~Clerk of the District Court~~
County Recorder

State of ~~County~~, Idaho

Re: Application of Birch Creek Ranches for Permit

Case No.: Appl. for Permit No. 31-07646

X Please file the attached Notice of Service of Discovery

___ Please issue the attached _____

___ Please certify the attached _____

___ Please present to the Judge for his consideration the attached _____

___ Please record the enclosed _____

___ Our firm check is enclosed in the amount of $_____ to cover your fee for _____

X Please return to this office the file stamped copy in the enclosed envelope.

___ Please forward _____

___ Other _____

Yours truly,

ROSHOLT, ROBERTSON & TUCKER

Angie Thormantrant
Legal Secretary

**State of Idaho**
**DEPARTMENT OF WATER RESOURCES**
**1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098**
**Phone: (208) 327-7900 FAX: (208) 327-7866**

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 30, 1997

RECEIVED
JUL 0 7 1997
Department of Water Resources
Eastern Region

**RE:** In the Matter of Application for Permit No. 31-07646 in the name of Birch Creek Ranches, L.L.C.

Dear Interested Parties:

I have enclosed a copy of the **ORDER APPOINTING HEARING OFFICER** issued in connection with the above referenced application for extension of time to avoid forfeiture.

Please review the order and contact me directly at (208)327-7953 if you have any questions.

Sincerely,

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Region

COPY

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR) PERMIT NO. 31-07646 IN THE NAME ) OF BIRCH CREEK RANCHES, L.L.C. ) ) | **ORDER APPOINTING HEARING OFFICER** |

On May 27, 1997, Kent W. Foster on behalf of Birch Creek Ranches (Birch Creek) filed a Petition For Blanket Disqualification of IDWR Employees (petition) with the Department of Water Resources (department) pursuant to IDAPA Rule 37.01.01412 (Procedure Rule 412) seeking to disqualify all department employees as hearing officer in the above captioned matter and seeking appointment of an independent hearing officer.

On May 30, 1997, the department issued an order granting the petition but did not specifically designate the hearing officer to be appointed, since the hearing officer determination had not yet been made. The department has since determined a hearing officer to be designated in this order.

**ORDER**

IT IS THEREFORE, HEREBY ORDERED that Peter Anderson, Idaho Deputy Attorney General, Natural Resources Division, is appointed to serve as the hearing officer in this contested case proceeding, pursuant to IDAPA 37.01.01.410, and is hereby authorized to hear this matter on behalf of the Idaho Department of Water Resources in accordance with the standard scope of authority under IDAPA 37.01.01.413, and the provisions of chapter 52, title 67, Idaho Code, and IDWR's Rules of Procedure.

IT IS FURTHER ORDERED that all other motions pending in this matter, and the setting of all prehearing deadlines and a hearing date shall be addressed by the newly appointed hearing officer.

DATED this 30th day of June, 1997.

KARL J. DREHER
Director

COPY

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 30th day of June, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER APPOINTING HEARING OFFICER** to the following:

Birch Creek Ranches, L.L.C.
c/o Kent W. Foster
HOLDEN KIDWELL HAHN
& CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405-0130

Gary D. Slette
ROSHOLT ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, ID 83303-1906

Owsley Canal Co.
P.O. Box 68
Terreton, ID 83450

Blair J. Grover
GROVER AND FAIRCHILD
215 Farnsworth Way
P.O. Box 36
Rigby, ID 83442-0036

George C. Peterson, Jr.
PETERSON MOSS OLSEN CARR
ESKELSON & HALL
485 E St.
Idaho Falls, ID 83402

James C. Tucker
ROSHOLT ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, ID 83303-1906

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

COPY

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | |
|---|---|
| THE MATTER OR APPLICATION ) FOR PERMIT 31-07646 IN ) THE NAME OF BIRCH CREEK ) RANCHES, L.L.C. ) | ORDER GRANTING PETITION TO INTERVENE |

On February 12, 1997, Birch Creek Ranches, L.L.C. filed an application for permit from Birch Creek with a point of diversion within the SESW Sect 34 T9N R30E, Clark County. The water will be used to irrigate 1264 acres in sections 33 and 34 T9N R33E and sections 8 and 17 T8N R33E.

Notice of the application was advertised statewide on April 3rd and 10th, 1997. On April 21, 1997, the Department received protests from D & D Enterprises, Mud Lake Water Users, and Idaho Power Company. A protest on behalf of LaVar Newman was received on April 16, 1997.

A Petition to Intervene was received on May 16, 1997, from Twin Falls Canal Company and the Northside Canal Company by and through their attorney of record, Gary D. Slette of the firm of Rosholt, Robertson & Tucker pursuant to Rule 350 of the Rules of Procedure of the Idaho Department of Water Resources.

The applicants attorney, Kent Foster, was notified. He voiced a verbal objection but declined to submit a written protest.

There appears to be substantial interest by the petitioners in the proceedings and a potential effect on the petitioners by the project proposed by the application.

IT IS ORDERED THAT the Request to Intervene be GRANTED in accordance with Rule 353 of the Rules of Procedure of the Idaho Department of Water Resources.

Dated this 5th day of June, 1997.

COPY

Ronald D. Carlson
Eastern Regional Manager

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 30, 1997

**RE:** In the Matter of Application for Permit No. 32-07646 in the name of Birch Creek Ranches, L.L.C.

Dear Interested Parties:

I have enclosed a copy of the **ORDER GRANTING PETITION** issued in connection with the above referenced application for permit.

Please review the order and contact me directly at (208)327-7953 if you have any questions.

Sincerely,

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Region

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR PERMIT NO. 31-07646 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | ORDER GRANTING PETITION |

On May 27, 1997, Kent W. Foster on behalf of Birch Creek Ranches (Birch Creek) filed a Petition For Blanket Disqualification of IDWR Employees (petition) with the Department of Water Resources (department) pursuant to IDAPA Rule 37.01.01412 (Procedure Rule 412) seeking to disqualify all department employees as hearing officer in the above captioned matter and seeking appointment of an independent hearing officer.

Section 67-5252, Idaho Code, and Rule 412 of the department's Rules of Procedure provide that a hearing officer's status as an employee of the agency is cause for disqualification.

ORDER

IT IS THEREFORE, HEREBY ORDERED that Birch Creek's petition in connection with the above captioned matter is **GRANTED**.

IT IS FURTHER HEREBY ORDERED that the department will appoint a hearing officer who is not an employee of the department.

DATED this 30th day of May, 1997.

L. GLEN SAXTON, Chief
Water Allocation Bureau

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 30th day of May, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER GRANTING PETITION** to the following:

Birch Creek Ranches, L.L.C.
c/o Kent Foster
HOLDEN KIDWELL HAHN
& CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

George C. Peterson, Jr.
PETERSON MOSS OLSEN MEACHAM
& CARR
485 E St.
Idaho Falls, ID 83402

Owsley Canal Co.
P.O. Box 68
Terreton, ID 83450

James C. Tucker
ROSHOLT ROBERTSON & TUCKER
142 3rd Ave. N
P.O. Box 1906
Twin Falls, ID 83303-1906

Gary Slette
ROSHOLT ROBERTSON & TUCKER
142 3rd Ave. N
P.O. Box 1906
Twin Falls, ID 83303-1906

Blair Grover
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

COPY

RECEIVED
MAY 27 1997
Department of Water Resources

File

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
330 Shoup Avenue, Third Floor
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR PERMIT NO. 31-07646 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES |

COMES NOW the applicant, Birch Creek Ranches, L.L.C., and hereby asserts a blanket disqualification for cause of all employees of IDWR under IDAP 37.01.01, Rule 412, of the Rules of Procedure of the Department of Water Resources, and requests appointment of an independent hearing officer for the purposes of hearing and deciding the above entitled contested matter. To applicant's knowledge no hearing officer has yet been assigned to hear the protests to applicant's pending application for permit.

Respectfully submitted this 22 day of May, 1997.

Kent W. Foster, Esq.
Holden, Kidwell, Hahn & Crapo, P.L.L.C.

## CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof.

**DOCUMENT SERVED:** PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES

**ATTORNEYS SERVED:**

IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720 *[First Class Mail]*

IDAHO DEPARTMENT OF WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718 *[First Class Mail]*

Blair Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, Idaho 83442-0036 *[First Class Mail]*

George Petersen, Esq.
PETERSEN, MOSS, OLSEN, MEACHAM & CARR
485 "E" Street
Idaho Falls, Idaho 83402 *[First Class Mail]*

Gary Slette, Esq.
ROSHOLT, ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, Idaho 83303-1906

*[First Class Mail]*

Dated: 5/22/97

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\KWF\6936\BRCH0521.DQF.sjw

Receipt # E023248

Gary D. Slette
ROSHOLT, ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, Idaho 83303-1906
Telephone: (208) 734-0700
05159702.GDS/jc

RECEIVED
MAY 19 1997
Department of Water Resources
Eastern Region

RECEIVED
MAY 16 1997
Department of Water Resources
Southern Region

COPY

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

In re: )
Application for Permit No. 31-07646 ) PETITION TO INTERVENE
Applicant: Birch Creek Ranches, L.L.C. )

COME NOW the Twin Falls Canal Company ("TFCC") and the North Side Canal Company, Ltd. ("NSCC"), by through their attorney of record, Gary D. Slette of the firm of Rosholt, Robertson & Tucker, and petitions the Idaho Department of Water Resources to allow the intervention of TFCC and NSCC in the above-captioned matter pursuant to Procedure Rule 350.

The direct and substantial interest of TFCC and NSCC in this proceeding relates to the potential impact upon the aquifer and interconnected springs that would occur in the event this application is approved. Recent studies of the Eastern Snake River Plain by the Idaho Department of Water Resources, the U.S. Geological Survey, and other entities and/or hydrologists have shown a direct correlation between groundwater extraction and spring flows that serve to fill the prior water rights of TFCC and NSCC.

This Petition is timely filed in accordance with Procedure Rule 352, since there has been no setting of either a formal hearing date or a prehearing conference date. As a consequence, there will be no disruption or prejudice to the process or to the existing parties,

and there will be no undue broadening of the issues to be decided in the hearing of this application. The Idaho Department of Water Resources is required, as a matter of law, to address the issue of injury to other water rights in its review of this application, and the participation of TFCC and NSCC will materially advance and aid the Department in such inquiry.

Wherefore, TFCC and NSCC respectfully pray that an order be issued by the Idaho Department of Water Resources granting this Petition to Intervene pursuant to and consistent with Procedure Rule 353.

DATED this 16 day of May, 1997.

ROSHOLT, ROBERTSON & TUCKER

By: _____
Gary D. Slette

CERTIFICATE OF SERVICE

The undersigned certifies that on the 16 day of May, 1997, he caused a true and correct copy of the foregoing PETITION TO INTERVENE, to be served upon the following persons in the following manner:

| | | |
|---|---|---|
| Kent W. Foster | [ ] | Hand Deliver |
| Holden, Kidwell, Hahn & Crapo, P.L.L.C. | [ ] | Overnight Courier |
| P.O. Box 50130 | [✔] | U.S. Mail |
| Idaho Falls, ID 83405-0130 | [ ] | Facsimile Transmission |
| | | |
| Blair J. Grover | [ ] | Hand Deliver |
| Grover & Fairchild | [ ] | Overnight Courier |
| 215 Farnsworth Way | [✔] | U.S. Mail |
| P.O. Box 36 | [ ] | Facsimile Transmission |
| Rigby, ID 83442-0036 | | |
| | | |
| George C. Petersen, Jr. | [ ] | Hand Deliver |
| Petersen, Moss, Olsen, Carr, | [ ] | Overnight Courier |
| Eskelson & Hall | [✔] | U.S. Mail |
| 485 "E" Street | [ ] | Facsimile Transmission |
| Idaho Falls, ID 83402 | | |
| | | |
| Garth Soderquist | [ ] | Hand Deliver |
| Owsley Canal Company | [ ] | Overnight Courier |
| Terreton, ID 83450 | [✔] | U.S. Mail |
| | [ ] | Facsimile Transmission |
| | | |
| Andy Dobson | [ ] | Hand Deliver |
| Independent Canal Company | [ ] | Overnight Courier |
| Terreton, ID 83450 | [✔] | U.S. Mail |
| | [ ] | Facsimile Transmission |

Gary D. Slette

Receipt # E023248

Gary D. Slette
ROSHOLT, ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, Idaho 83303-1906
Telephone: (208) 734-0700
05159702.GDS/jc

RECEIVED
MAY 19 1997
Department of Water Resources
Eastern Region

RECEIVED
MAY 16 1997
Department of Water Resources
Southern Region

COPY

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

| | | |
|---|---|---|
| In re: | ) | |
| Application for Permit No. 31-07646 | ) | PETITION TO INTERVENE |
| Applicant: Birch Creek Ranches, L.L.C. | ) | |

COME NOW the Twin Falls Canal Company ("TFCC") and the North Side Canal Company, Ltd. ("NSCC"), by through their attorney of record, Gary D. Slette of the firm of Rosholt, Robertson & Tucker, and petitions the Idaho Department of Water Resources to allow the intervention of TFCC and NSCC in the above-captioned matter pursuant to Procedure Rule 350.

The direct and substantial interest of TFCC and NSCC in this proceeding relates to the potential impact upon the aquifer and interconnected springs that would occur in the event this application is approved. Recent studies of the Eastern Snake River Plain by the Idaho Department of Water Resources, the U.S. Geological Survey, and other entities and/or hydrologists have shown a direct correlation between groundwater extraction and spring flows that serve to fill the prior water rights of TFCC and NSCC.

This Petition is timely filed in accordance with Procedure Rule 352, since there has been no setting of either a formal hearing date or a prehearing conference date. As a consequence, there will be no disruption or prejudice to the process or to the existing parties,

and there will be no undue broadening of the issues to be decided in the hearing of this application. The Idaho Department of Water Resources is required, as a matter of law, to address the issue of injury to other water rights in its review of this application, and the participation of TFCC and NSCC will materially advance and aid the Department in such inquiry.

Wherefore, TFCC and NSCC respectfully pray that an order be issued by the Idaho Department of Water Resources granting this Petition to Intervene pursuant to and consistent with Procedure Rule 353.

DATED this 16 day of May, 1997.

ROSHOLT, ROBERTSON & TUCKER

By: _____
Gary D. Slette

CERTIFICATE OF SERVICE

The undersigned certifies that on the 16 day of May, 1997, he caused a true and correct copy of the foregoing PETITION TO INTERVENE, to be served upon the following persons in the following manner:

| | | |
|---|---|---|
| Kent W. Foster | [ ] | Hand Deliver |
| Holden, Kidwell, Hahn & Crapo, P.L.L.C. | [ ] | Overnight Courier |
| P.O. Box 50130 | [✓] | U.S. Mail |
| Idaho Falls, ID 83405-0130 | [ ] | Facsimile Transmission |
| | | |
| Blair J. Grover | [ ] | Hand Deliver |
| Grover & Fairchild | [ ] | Overnight Courier |
| 215 Farnsworth Way | [✓] | U.S. Mail |
| P.O. Box 36 | [ ] | Facsimile Transmission |
| Rigby, ID 83442-0036 | | |
| | | |
| George C. Petersen, Jr. | [ ] | Hand Deliver |
| Petersen, Moss, Olsen, Carr, | [ ] | Overnight Courier |
| Eskelson & Hall | [✓] | U.S. Mail |
| 485 "E" Street | [ ] | Facsimile Transmission |
| Idaho Falls, ID 83402 | | |
| | | |
| Garth Soderquist | [ ] | Hand Deliver |
| Owsley Canal Company | [ ] | Overnight Courier |
| Terreton, ID 83450 | [✓] | U.S. Mail |
| | [ ] | Facsimile Transmission |
| | | |
| Andy Dobson | [ ] | Hand Deliver |
| Independent Canal Company | [ ] | Overnight Courier |
| Terreton, ID 83450 | [✓] | U.S. Mail |
| | [ ] | Facsimile Transmission |

Gary D. Slette

Receipt # E023141

3/96

# STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES
# NOTICE OF PROTEST

RECEIVED
Eastern Region

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested #31-07646 Appropriation of the public waters of the State of ID

2. Name of protestant Mud Lake Water Users Owsley, Jackett + Haley, Jefferson + Madison + producers

3. Protestant's representative for service (If different than protestant)
Garth Soderquist

COPY

4. Service mailing address P.O. Box 68 Terreton, ID 83450

5. Service telephone no. 208-663-4359 663-4538

6. Basis of protest (including statement of facts and law upon which the protest is based)
1) Proposed changes will injure the water rights of the protestants
2) Proposed changes may constitute an enlargement in use of the original water rights
3) Proposed changes may be inconsistent with the conservation of water resources within the State of Idaho.
4) Proposed changes are not in the local public interest

*(additional pages may be attached to describe the nature of the protest)*

7. What would resolve your protest?

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 18 day of April, 19 97.

Mud Lake Water Users
PROTESTANT

Garth Soderquist
PROTESTANT'S REPRESENTATIVE

Receipt # E023137

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

COPY

| | |
|---|---|
| IN THE MATTER OF THE APPLICATION FOR PERMIT #31-7646 OF BIRCH CREEK RANCHES, L.L.C., FOR ALLEGED CLAIM OF SAVED OR SALVAGED WATER THE SUBJECT OF WATER RIGHT #31-7646. | PROTEST OF D&D ENTERPRISES, INC. |

D&D ENTERPRISES, INC., an Idaho corporation ("D&D") protestant, individually and by and through its counsel of record, George C. Petersen, Jr., of the firm of PETERSEN, MOSS, OLSEN, CARR, ESKELSON & HALL, in care of George C. Petersen, Jr., of PETERSEN, MOSS, OLSEN, CARR, ESKELSON & HALL, 485 "E" Street, Idaho Falls, Idaho 83402, hereby enters its protest to the application for permit no. 31-7646 filed by Birch Creek Ranches, L.L.C. ("Ranches"), wherein Ranches makes a claim to 17.01 cfs alleged to be generated by saved and salvaged water identified in Ranches' application for permit the subject of permit no. 31-7646, and further, permission to transfer by lease, subterranean waters owned by lessor (described in Exhibit "B" attached to said application) and to irrigate a leased acreage described in Exhibit "A" attached to said application, which application for permit specifically identifies and details Ranches' support for the alleged claims of Ranches, on the following grounds:

D&D Enterprises, Inc., is a substantial user of the waters of Birch Creek, for irrigation purposes, said use thereof and D&D Enterprises, Inc.'s irrigated acres are situated downstream from that certain area and/or areas in which Ranches claims to have developed saved water the

subject of its Petition, and further, D&D is located upstream from Ranches' acreage proposed to be irrigated by those certain waters of Birch Creek and other waters identified therein, the subject of applicant's application for permit no. 31-7646 and to further transport said alleged saved waters to those certain new areas of use specifically described therein. From a preliminary review of the application for permit no. 31-7646 to transfer Birch Creek waters and otherwise and to establish a new acreage use for said transferred waters, the subject of the application for permit no. 31-7646, it appears that the so called claimed and/or saved water, the subject of said application is not in existence and/or is bogus water; and further, in the event it is determined that there is any saved water to be claimed, said claimed or saved water does not belong to and/or is not the subject of a claim of Ranches but of other water users; the proposal and claims of Ranches to participate in the various leases described in Ranches' application, and to transport said water from its present designated place of use, together with all of the other requests and permissions the subject of Ranches' application for permit no. 31-7646, is not legally permitted under the appropriate statutes of the State of Idaho and the current laws of Idaho; and further, said request of applicant is not in the best interest of this protestant and other water users of the waters of Birch Creek on the grounds and for the following reasons:

1. Substantial irreparable damage to water rights of protestant will result to this protestant and others, in the event there is an approval of applicant's permit the subject of permit no. 31-7646.

2. Applicant fails to take into consideration transmission losses from its current and existing points of diversion and use to its new claimed proposed points of use. Applicant has failed to take into consideration transmission losses and/or addressed those certain transmission losses that historically are substantial in the area where the waters are proposed to be transported

for a very substantial number of miles, that is, the feasibility of said anticipated transfer and the expected loss of water during said transfer will be such that the feasibility of said proposed transfer is very questionable.

3. Applicant has failed to address and/or take into consideration the water rights and priorities of current downstream water users of the waters of Birch Creek and the other waters identified in applicant's application for permit no. 31-7646.

4. Applicant's application is barred by the amended moratorium order.

5. Applicant's claim to the alleged saved waters claimed by applicant is barred by the abandonment statute and other appropriate statutes of the State of Idaho.

6. Applicant's application seeks inter-basin transfer of water contrary to Idaho law.

7. The proposal of applicant, as detailed in applicant's permit no. 31-7646, fails to recognize a water supply that is currently insufficient for the proposed application and in effect results in a substantial expansion of use all contrary to current Idaho law.

8. Applicant's request for saved water and/or to transfer alleged saved water involves waters that have either been abandoned and/or forfeited and/or have historically and adversely been used by other water users and thus applicant has no legal claim to said alleged saved waters, if any. The agreement to lease water and to transfer same from land that is currently under a CRP arrangement, is an enlargement of acres to be irrigated, all contrary to the current laws of the State of Idaho.

9. Approval of application for permit no. 31-7646 would constitute an enlargement of the use of water rights of applicant, that is, on the face of the above identified application for permit, the approval of said request would result in a substantial increase of acres to be

irrigated, all of which under the circumstances described in applicant's Petition for a permit, constitutes an enlargement of use all contrary to the current laws of the State of Idaho.

10. There is no showing in the application of applicant for permit no. 31-7646 that applicant has obtained the appropriate and necessary right-of-ways to transfer the waters of Birch Creek and the leased waters identified therein.

11. This protestant has a number of questions regarding the legality, enforceability and the permanency of the proposed lease of waters and irrigation of that certain acreage described in Birch Creek's Petition for Permit, the subject of the above entitled matter.

12. D&D objects to the notice of publication (improper publication) appearing in The Post Register and/or otherwise, of the above referenced application, in that the waters the subject of the above described application are situated in District no. 32-D and Ranches' publication references water situated in District no. 31, that is, permit no. 31-7646; further, Ranches' assignment of permit no. 31-7646 to its application represents the assignment of an improper number (31) for filing an application in District no. 32-D the subject of the above entitled action.

13. All or some portion of the water sought by applicant is already appropriated.

D&D hereby respectfully requests the right to amend this protest following receipt of reports and recommendations from its water engineer or following receipt of additional information from other water users on Birch Creek.

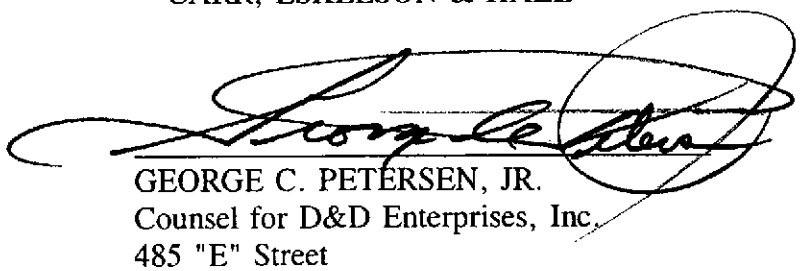
DATED this 18th day of April, 1997.

D&D ENTERPRISES, INC.

By: James S. DeMordaunt

James S. DeMordaunt
President

PETERSEN, MOSS, OLSEN,
CARR, ESKELSON & HALL

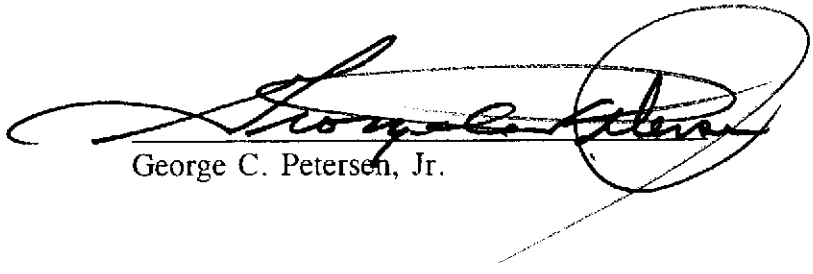


GEORGE C. PETERSEN, JR.
Counsel for D&D Enterprises, Inc.
485 "E" Street
Idaho Falls, ID 83402
(208) 523-4650

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on the 21st day of April, 1997, I served a true and correct copy of the foregoing document on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered as defined by Rule 5(b), I.R.C.P.

| Persons Served: | Method of Service: |
|---|---|
| DEPARTMENT OF WATER RESOURCES<br>900 N. SKYLINE DRIVE<br>IDAHO FALLS, ID 83402 | [ ] Mail [X] Hand [ ] Fax |
| KENT W. FOSTER, ESQ.<br>HOLDEN, KIDWELL, HAHN & CRAPO<br>PO BOX 50130<br>IDAHO FALLS, ID 83402 | [X] Mail [ ] Hand [ ] Fax |
| BLAIR J. GROVER, ESQ.<br>GROVER & ARCHIBALD<br>PO BOX 36<br>RIGBY, ID 83442 | [X] Mail [ ] Hand [ ] Fax |



George C. Petersen, Jr.

Receipt # E023121

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

COPY

| | | |
|---|---|---|
| IN THE MATTER OF APPLICATION FOR NO. 31-7646 IN THE NAME OF BIRCH CREEK RANCHES, L. L. C. | ) ) ) ) | PROTEST OF LAVAR NEWMAN |

COMES NOW Lavar Newman, by and through his undersigned attorney of record, Blair Grover, and protests the Application for Permit No. 31-7646 for among others the following reasons:

1. The application is barred by the Amended Moratorium Order.

2. The application is barred by principles of res judicata and/or collateral estoppel by the Modified Decision of IDWR dated March 27, 1985 in Application for Permit Nos. 32-07128 and 32-07136 and/or the Amended Memorandum Decision in Bonneville County Case No. 33072.

3. The application seeks interbasin transfer of water contrary to Idaho law.

4. The application will reduce the quantity of water under existing water rights including the water rights of this Protestant.

5. The water supply is insufficient for the proposed appropriation and seeks a substantial expansion of use.

6. The application is speculative for among others the following reasons:

A. The lease option for the proposed place of use is only for a one (1) year term with an option to extend for one (1) year and an option to purchase. The purchase terms are not disclosed so it is impossible to know if they are commercially reasonable.

B. The lease of the mitigation water is for six (6) years reserving in the lessor a right to sell to anyone during the lease terms, subject to the applicant's right to meet the sale terms.

C. The proposed place of use is several miles distant and rights of way may be impossible to obtain.

D. The transmission losses will be so large that the project is not feasible.



RECEIVED
APR [illegible] 2007
Department of Water Resources
Eastern Region

The applicant recognizes the speculation and uncertainty, and has therefore entered into agreements that it can withdraw from at the end of one (1) year in case the entire project is an economic failure.

7. All or some portion of the water sought by the application is already appropriated.

8. The appropriation is in conflict with the local public interest because it reduces the local aquifer and interferes with fish and wildlife.

DATED this 16th day of April, 1997.

BLAIR GROVER
Counsel for Lavar Newman
P.O. Box 36
Rigby, ID 83442
(208) 745-6653

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Rigby, Idaho; that I served a copy of the foregoing document or pleading upon the following person(s) at the addresses below their names either by hand delivering, by facsimile transmission (Fax), or by mailing said document in the United States mail with the correct postage thereon, a true and correct copy thereof this 16 day of April, 1997.

| | | |
|---|---|---|
| Served: | Kent W. Foster, Esq.<br>P.O. Box 50130<br>Idaho Falls, ID 83405 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |
| | George Petersen, Esq.<br>485 "E" Street<br>Idaho Falls, ID 83402 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |
| | Idaho Department of Water Resources<br>900 N Skyline Dr.<br>Idaho Falls, ID 83402 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |

BLAIR GROVER

Form 202
6/85

Ident. No. 32-01252
Renumbered
From 31-07646

# STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES
# APPLICATION FOR PERMIT

RECEIVED
FEB 12 1997
Department of Water Resources
Eastern Region

COPY

**To appropriate the public water of the State of Idaho**

1. Name of applicant Birch Creek Ranches, L.L.C. Phone (208) 523-0620
Post office address c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., P.O. Box 50130
Idaho Falls, Idaho 83405

2. Source of water supply water saved or salvaged by elimination of 3,000 feet of Birch Creek channel and 10 miles of old Reno Ditch which is a tributary of sinks

3. Location of point of diversion is ____ ¼ of SE ¼ of SW ¼, Govt. Lot ____
Sec. 34 Township 9N Range 30E B.M. Clark County, additional points of diversion if any: Rediversion from Reno Ditch in SESE, 11, T.8N., R.31 E.B.M.

4. Water will be used for the following purposes:
Amount 16.9cfs[1] for Irrigation purposes from 4/1 to 11/1 (both dates inclusive)
(cfs or acre-feet per annum)

Amount .1cfs[1] for Riparian habitat, wild life purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) and stock watering

5. Total quantity to be appropriated is (a) 17.0[1] and/or (b) 7250
cubic feet per second acre feet per annum

6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Existing earthen dam with buried PVC liner located in Birch Creek at the point of diversion to divert water into the lined feeder channel, then to the power plant which discharges water into the old Reno Ditch; thence from the Reno Ditch in the SESE 11, T.8N., R.31E. across the road onto BLM land and then through a new lined channel to a lined pond and through gravity flow mainline as shown on attached map. No new construction or facilities are contemplated at the point of diversion.

---

[1] Water saved is equal to 34% of the flow of Birch Creek at the new Reno Diversion. So, when such flow amounts to 50.0cfs, the savings is 17.0cfs. It is contemplated that the flow of Birch Creek at this point will seldom meet or exceed 50.0cfs during the irrigation season, but the amount sought by this application is 34% of the total of such flow, whatever that amount might be at any time during the irrigation season.

Well #2

AJ5809NP
No. A33-02141

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/15/96
PAGE: 4

| OWNER CODE | NAME & ADDRESS | PRIORITY DATE | WATER USE | USE PERIOD FROM | USE PERIOD TO | DIVERSION RATE | DIVERSION VOLUME |
|---|---|---|---|---|---|---|---|
| C | ALAN J AMY | 01/29/1949 | IRRIGATION | 04-01 | 11-01 | 3.20 CFS | |
| | | | | TOTAL DIVERSION: | | 3.20 CFS | |
| | | | | CONSUMPTIVE USE: | | | 400.00 AFA |

Water Source: GROUNDWATER  Tributary to:  Stage: LICENSE

Point(s) of Diversion: T10N R27E S19  NESW  SESE  BUTTE County

Place of use Legal Description for: IRRIGATION

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| T | R | S | NENE Lt Ac | NWNE Lt Ac | SWNE Lt Ac | SENE Lt Ac | NENW Lt Ac | NWNW Lt Ac | SWNW Lt Ac | SENW Lt Ac | NESW Lt Ac | NWSW Lt Ac | SWSW Lt Ac | SESW Lt Ac | NESE Lt Ac | NWSE Lt Ac | SWSE Lt Ac | SESE Lt Ac | SUM |
| 10N | 27E | 19 | | | | | | | | | | | | | 14 | | | 34 | 48.0 |
| 10N | 27E | 20 | | | | | | | | | 37 | 40 | | | | | | | 77.0 |
| 10N | 27E | 29 | | | | | | 28 | | | | | | | | | | | 28.0 |
| 10N | 27E | 30 | | 07 | | | | | | | | | | | | | | | 7.0 |
| | | | | | | | | | | | | | | | | | TOTAL ACRES | | 160.0 |

POU County: BUTTE

Non-Irrigation Uses: NONE

Other Rights: 33-00087/02034

Remarks: GEN CHANGE OF OWNERSHIP REMOVES DECEASED FATHERS NAME,**26APR96,ABR**

Dates: Exam Made Date:  Verified Date:  Objection Filed Date:

Misc: Water District Number:  Field Inspection Flag:
Presumption Flag:

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet; period of year when water will be diverted to storage: _____ to _____ inclusive.

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

d. Is ground water with a temperature of greater than 90°F being sought? No

7. Time required for the completion of the works and application of the water to the proposed beneficial use is five years ~~(*minimum 1 year*)~~.

8. Description of proposed uses (*if irrigation only, go to item 9*):

a. Hydropower; show total feet of head and proposed capacity of KW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. _____

e. Other; describe fully. .1cfs would be used for riparian habitat, wildlife and stock watering as required by conditions of permits nos. 32-07128 and 32-07136

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (*example: D for Domestic*) in the corresponding place of use below. See instructions 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 | |
| 9N | 33E | 33 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | | | | | | | | | 320 |
| | | 34 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | | | | | | | | | 320 |
| 8N | 33E | 8 | 40 | 40 | 40 | 40 | | | | | | | | | 40 | 40 | 40 | 40 | 320 |
| | | 17 | 40 | 40 | 40 | 40 | 24 | 40 | 40 | 40 | | | | | | | | | 304 |

Total number of acres to be irrigated 1264

10. Describe any other water rights used for the same purposes as described above. None

11. a. Who owns the property at the point of diversion? Applicant

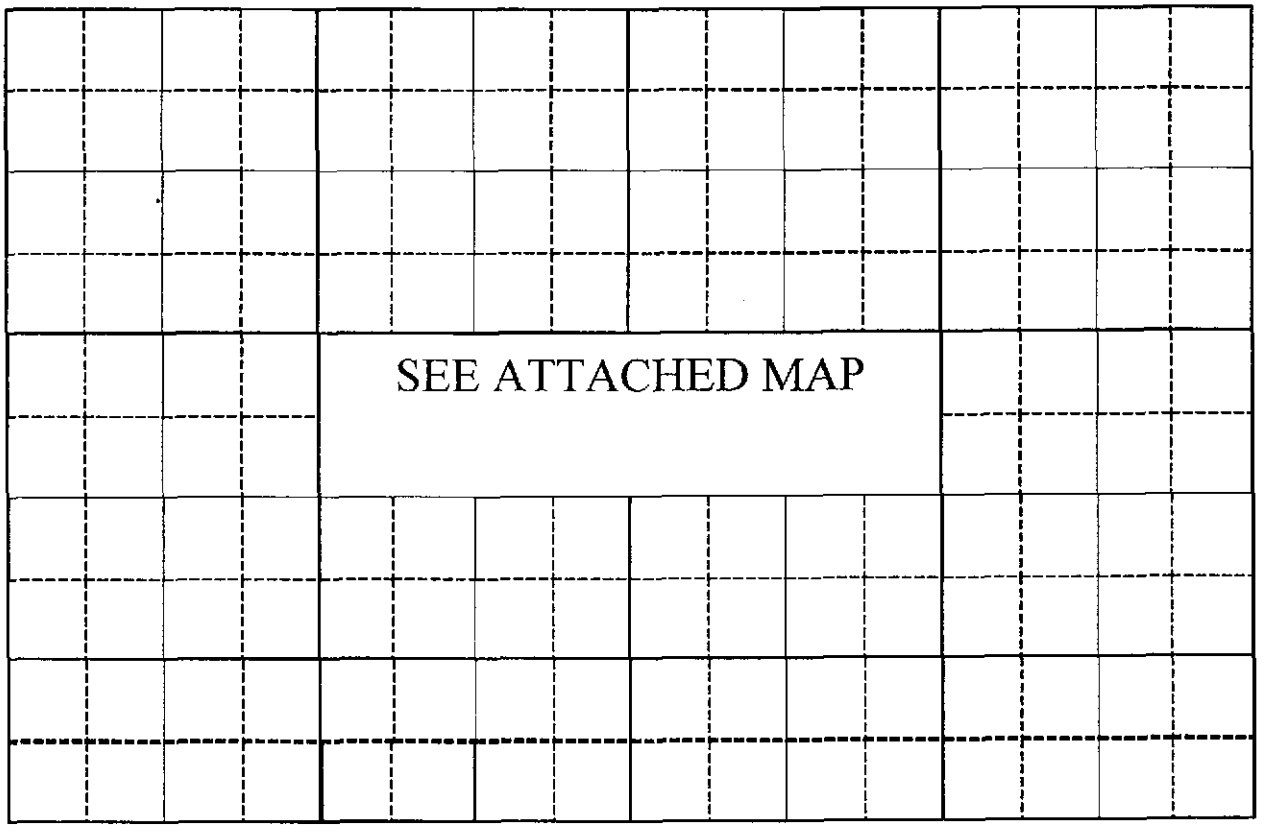
b. Who owns the land to be irrigated or place of use? See Notice referred to below

c. If the property is owned by a person other than the applicant, describe the

arrangement enabling the applicant to make this filing. See attached Notice of Lease & Option (Exhibit "A")

12. Remarks: This application for permit is filed pursuant to the exception no. 9.(b) contained in the Amended Moratorium Order (Eastern Snake River Plain Area), dated April 30, 1993. The proposed mitigation would be to not irrigate 922 acres of land under rights nos. 35-07334 and 35-07511, (See attached Lease of Water Rights with First Right of Refusal - Exhibit "B") and 310 acres of land under rights nos. 33-02141 and 33-02106. (See attached Warranty Deed - Exhibit "C")

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.




SCALE: 2 inches equal 1 mile. Draw plan in ink.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public water of the State of Idaho as herein set forth.

(Applicant)

Received by JoT Date 2-12-97 Time 12:31 P Preliminary check by _____

Fee $420.00 Receipted by HWS # E022974 Date 2-24-97

Publication prepared by RB Date 4-3, 10-97 Published on Statewide

Notice of Correction 8-7, 14-97

Publication approved _____ Date _____

---

**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

   a. SUBJECT TO ALL PRIOR WATER RIGHTS.

   b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19___.

   c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

   d. The water right acquired under this permit, if for hydropower purposes, shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

   e. Other:

Exhibit "A"

# NOTICE OF LEASE AGREEMENT AND OPTION TO PURCHASE

COPY

NOTICE IS HEREBY GIVEN THAT by written Agreement dated the 31 day of January, 1997, the undersigned, **BLAINE LARSEN and CONNIE LARSEN**, husband and wife, have leased the hereinafter described property to **BIRCH CREEK RANCHES, L.L.C.**, an Idaho limited liability company. Such Lease Agreement is for a one year initial term which shall expire on January 31, 1998. The Lessee has the option of extending such Lease Agreement for a second one year term which shall expire on January 31, 1999. Blaine Larsen and Connie Larsen have also granted to Birch Creek Ranches LLC an option to purchase the hereinafter described property which such purchase option may be exercised at any time prior to the expiration of the above described lease term.

The property subject to such Lease Agreement and Option to Purchase is described as follows, to-wit:

Parcel One:

Township 9 North, Range 33 East of the Boise Meridian, Clark County, Idaho.
Section 33: N½
Excepting Therefrom: Public road right-of-way along the west side of said property.

Parcel Two:

Township 9 North, Range 33 East of the Boise Meridian, Clark County, Idaho.
Section 34: N½
Excepting Therefrom: Public road right-of-way along the west side of said property.

Parcel Three:

Township 8 North, Range 33 East of the Boise Meridian, Jefferson County, Idaho.
Section 8: E½
Excepting Therefrom: County road rights-of-way along all the Section lines of said property.

| Post-It™ brand fax transmittal memo 7671 | # of pages ▸ 3 |
|---|---|
| To Sharon | From Jo |
| Co. | Co. |
| Dept. | Phone # |
| Fax # | Fax # |

Parcel Four:

Township 8 North, Range 33 East of the Boise Meridian, Jefferson County, Idaho.
Section 17: N½
Excepting Therefrom: Part of the NW¼ of Section 17, Township 8 North, Range 33 East B.M., Jefferson County, Idaho described as:
Commencing at the NW corner of said Section 17 and running thence S89°59'11" E 1269.16 feet along the section line; thence S0°41'45" W 1001.72 feet; thence N87°59'14" W 267.26 feet; thence N1°48'07" W 567.79 feet; thence S89°27'20" W 972.87 feet to the west line of said Section 17; thence N0°06'06" E 434.30 feet along said section line to the point of beginning.
Exception containing 16.13 acres more or less.
Also Excepting Therefrom: County road rights-of-way along all the Section lines of said property.

It is understood and agreed, that this Instrument is for the purpose of giving notice of the above mentioned Lease Agreement and Option to Purchase.

DATED this 31 day of January, 1997.

BIRCH CREEK RANCHES, L.L.C.

By: _____
Ted S. Sorenson, Member

By: _____
Gayle A. Sorenson, Member

_____
Blaine Larsen

_____
Connie Larsen

STATE OF IDAHO )
)ss.
County of Bonneville )

On the 31st day of January, 1997, before me the undersigned, a notary public in and for said State, personally appeared Ted S. Sorenson, known or identified to me to be a member of **Birch Creek Ranches, L.L.C.**, and the member or one of the members who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that such member executed the same in said limited liability company name.

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

(seal) DAVID E. BENTON NOTARY PUBLIC STATE OF IDAHO

David E. Benton
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 10-28-97

STATE OF IDAHO )
)ss.
County of Bonneville )

On the 31st day of January, 1997, before me the undersigned, a notary public in and for said State, personally appeared Gayle A. Sorenson, known or identified to me to be a member of **Birch Creek Ranches, L.L.C.**, and the member or one of the members who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that such member executed the same in said limited liability company name.

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

(seal) DAVID E. BENTON NOTARY PUBLIC STATE OF IDAHO

David E. Benton
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 10-28-97

STATE OF IDAHO )
)ss.
County of Bonneville )

On the 31st day of January, 1997, before me, the undersigned, a notary public in and for said State, personally appeared **Blaine Larsen**, known or identified to me 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.

(seal) DAVID E. BENTON NOTARY PUBLIC STATE OF IDAHO

David E. Benton
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 10-28-97

STATE OF IDAHO )
)ss.
County of Bonneville )

On the 31st day of January, 1997, before me, the undersigned, a notary public in and for said State, personally appeared **Connie Larsen**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she 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.

(seal) DAVID E. BENTON NOTARY PUBLIC STATE OF IDAHO

David E Benton
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 10-28-97

G:\WPDATA\CAH\8967\LARSEN.NEA.ii

Exhibit "B"

# LEASE OF WATER RIGHTS WITH FIRST RIGHT OF REFUSAL

COPY

This agreement is made this 5th day of February, 1997, by and between JAMES GNEITING and JULIE GNEITING, his wife, of 566 North 3400 East, Lewisville, Idaho 83431, "LESSORS" and BIRCH CREEK RANCHES, L.L.C., an Idaho Limited Liability Company, having its principal place of business in Clark County, Idaho, "LESSEE",

## WITNESSETH

That for and in consideration of the mutual covenants and promises herein set forth, the parties hereto agree as follows:

1. LESSORS are the holders of Idaho Water Rights Licenses, numbers 35-07334 and 35-07511, which authorize the diversion of a combined total of 10.14 cfs of groundwater for the irrigation of a total of 922 acres of farmland in Jefferson County, Idaho. LESSORS represent and warrant that the lands to which said rights are presently appurtenant are currently the subject of conservation reserve program contracts with the United States Department of Agriculture, and that although water has not been diverted and applied for irrigation under such rights pursuant to the provisions of said contracts during their terms, neither of said rights, nor any portion thereof, has been abandoned or lost through forfeiture because of non use, or for any other reason, and that said water rights are valid and legally enforceable in every respect.

2. LESSORS hereby agree to lease to LESSEE, and LESSEE hereby agrees to lease from LESSORS, said water rights for LESSEE'S use for providing mitigation in connection with LESSEE'S application for a permit to appropriate water rights for irrigation of LESSEE'S land in Clark County, Idaho. This lease, and the terms thereof, shall become effective only upon the grant, by Idaho Department of Water Resources (IDWR) of the permit being sought by LESSEE, and IDWR's approval of LESSEE'S mitigation proposal.

3. The term of this lease shall be ~~seven~~ ~~(7)~~ 6 years, commencing with the date of the granting of LESSEE'S application for permit by the Idaho Department of Water Resources.

4. The annual rental shall be Sixteen Thousand Dollars ($16,000.00). The first year's payment due, in advance, commencing thirty (30) days after the date of receipt of LESSEE'S permit from IDWR and continuing after the first year annually January 2 at 50% and July 2 at 50%.

5. LESSEE shall have the right to terminate this lease during the term hereof for the succeeding crop season, upon written notice to LESSORS, on or before September 1 of the immediately preceding calendar year, and payment of a termination fee in the amount of Ten Thousand Dollars ($10,000.00) after September 1.

6. LESSEE shall have the 1st right of refusal (the "Option") to purchase said water rights and/or the land to which the same are appurtenant (the "Property") for a period ending five years from the date of expiration of this Lease or any renewal, extention, or succeeding lease between LESSORS and LESSEE. If LESSORS desire to sell or transfer all or a portion of the Property during such time, they shall give LESSEE written notice containing the terms and conditions of a bona fide offer they have received from a third party. LESSEE may exercise the Option by giving notice within ~~sixty (60) day~~ 30 of LESSEE'S receipt of the notice. If LESSEE does not exercise the Option, LESSORS may sell or transfer the Property (or portion thereof on which the notice was sent) to the bona fide third party offeror on the terms and conditions stated in the notice, provided the sale takes place within 180 days after LESSEE'S receipt of the notice.

7. Any and all costs associated with LESSEE'S application for permit, relying on the use of the above described water rights for mitigation purposes, shall be borne by LESSEE.

8. The failure of either party to comply with the terms of this lease will obligate that party to pay all expenses, including, but not limited, to, a reasonable attorneys fee, incurred by the other party because of the failure.

9. The covenants, terms conditions, provisions and undertaking of this lease shall extend to and be binding upon the heirs, executors, personal representatives, successors in interest and assigns of the respective parties hereto.

10. The parties agree that they will each execute any and all documents which may be required and cooperate in every appropriate way to give effect to the provisions of this lease agreement.

In Witness Whereof, the parties have hereunto set their hands and seals the day and the year first above written.

James Gneiting

Julie Gneiting

LESSORS

BIRCH CREEK RANCHES, L.L.C.

By: Gayle A. Sorenson

Gayle A. Sorenson, Member

LESSEE

STATE OF IDAHO )
)ss.
County of Jefferson )

On the 9 day of February, 1997, before me, the undersigned, a notary public in and for said State, personally appeared JAMES GNEITING and JULIE GNEITING, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

Reed D Nord

Notary Public for Idaho
Residing at Rigby, Idaho
My Commission Expires: March 13-2003

(seal)

STATE OF IDAHO )
)ss.
County of Bonneville )

On the 9 day of Feb, 1997, before me the undersigned, a notary public in and for said State, personally appeared Gayle A. Sorenson, known or identified to me to be a member of **Birch Creek Ranches, L.L.C.**, and the member or one of the members who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that such member executed the same in said limited liability company name.

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

Notary Public for Idaho
Residing at ~~Idaho Falls, Idaho~~
My Commission Expires: March 13, 2003

(seal)

G:\WPDATA\GAS\8967\GNEITING.DOC

212639

EXHIBIT "A"

Township 10 North, Range 27 EBM, Butte County, Idaho

Section 19: SW 1/4NE1/4; N1/2SE1/4; SE1/4SE1/4
EXCEPTING THEREFROM: That portion of the following described property lying North of the County Road; SE1/4 NW1/4 SE1/4 and the NE1/4 SW1/4 SE1/4 of said Section 19.
Section 30: NE1/4NE1/4
Section 20: W1/2SW1/4
EXCEPTING THEREFROM: Beginning at a point that is N89o48'25"E 903.50 feet along the Section line and South 2724.10 feet from the NW Corner of said Section 20, and running thence South 125.00 feet; thence East 125.00 feet; thence North 125.00 feet; thence West 125.00 feet to the point of beginning.
ALSO EXCEPTING THEREFROM: N1/2 NW1/4 SW1/4 North of the Access Road and South of Little Lost River.

Township 10 North, Range 26 EBM, Butte County, Idaho

Section 36: N1/2 EXCEPTING THEREFROM: Commencing at the SW Corner of the NW1/4 of said Section 36, thence North 1,500.00 feet; thence East 240 feet; thence South 1,500 feet; thence West 240 feet to the point of beginning.

Township 10 North, Range 27 EBM, Butte County, Idaho

Section 19: SW1/4SE1/4

Township 11 North, Range 25 EBM Custer County, Idaho

Section 24: E1/2SE1/4
Section 25: NE1/4NE1/4
Section 36: W1/2
Township 11 North, Range 26 EBM Custer County, Idaho

Section 19: Lots 3 and 4; N1/2SE1/4, E1/2SW1/4
Section 30: Lot 1; NE1/4NW1/4; NW1/4NE1/4; SE1/4NE1/4; E1/2SE1/4; SW1/4SE1/4

Well #1



| OWNER CODE | NAME & ADDRESS | PRIORITY DATE | WATER USE | USE PERIOD FROM | USE PERIOD TO | DIVERSION RATE | DIVERSION VOLUME |
|---|---|---|---|---|---|---|---|
| C | ALAN J AMY | 08/07/1961 | IRRIGATION | 04-01 | 11-01 | 3.00 CFS | |
| | | | | TOTAL DIVERSION: | | 3.00 CFS | |
| | | | | CONSUMPTIVE USE: | | | 375.00 AFA |

Water Source: GROUNDWATER  Tributary to:  Stage: LICENSE

Point(s) of Diversion: T10N R27E S19 NESW SESE BUTTE County

Place of use Legal Description for: IRRIGATION

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NENE | NWNE | SWNE | SENE | NENW | NWNW | SWNW | SENW | NESW | NWSW | SWSW | SESW | NESE | NWSE | SWSE | SESE | |
| T | R | S | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | SUM |
| 10N | 27E | 19 | | | 37 | | | | | | | | | | 24 | 35 | 09 | 04 | 109.0 |
| 10N | 27E | 20 | | | | | | | | | | 02 | | | | | | | 2.0 |
| 10N | 27E | 29 | | | | | | 11 | 10 | | | 04 | | | | | | | 25.0 |
| 10N | 27E | 30 | | 13 | | 01 | | | | | | | | | | | | | 14.0 |
| | | | | | | | | | | | | | | | | TOTAL ACRES | | | 150.0 |

POU County: BUTTE

Non-Irrigation Uses: NONE

Other Rights: 33-00087/02034

Dates: Exam Made Date:  Verified Date: 04/23/1985  Objection Filed Date:

Misc: Water District Number:  Field Inspection Flag:
Presumption Flag:

Well #2

AJ5809NP
No. A33-02141

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/15/96
PAGE: 4

| OWNER CODE | NAME & ADDRESS | PRIORITY DATE | WATER USE | USE PERIOD FROM | USE PERIOD TO | DIVERSION RATE | DIVERSION VOLUME |
|---|---|---|---|---|---|---|---|
| C | ALAN J AMY | 01/29/1949 | IRRIGATION | 04-01 | 11-01 | 3.20 CFS | |
| | | | | TOTAL DIVERSION: | | 3.20 CFS | |
| | | | | CONSUMPTIVE USE: | | | 400.00 AFA |

Water Source: GROUNDWATER  Tributary to:  Stage: LICENSE

Point(s) of Diversion: T10N R27E S19  NESW  SESE  BUTTE County

Place of use Legal Description for: IRRIGATION

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| T | R | S | NENE Lt Ac | NWNE Lt Ac | SWNE Lt Ac | SENE Lt Ac | NENW Lt Ac | NWNW Lt Ac | SWNW Lt Ac | SENW Lt Ac | NESW Lt Ac | NWSW Lt Ac | SWSW Lt Ac | SESW Lt Ac | NESE Lt Ac | NWSE Lt Ac | SWSE Lt Ac | SESE Lt Ac | SUM |
| 10N | 27E | 19 | | | | | | | | | | | | | 14 | | | 34 | 48.0 |
| 10N | 27E | 20 | | | | | | | | | | 37 | 40 | | | | | | 77.0 |
| 10N | 27E | 29 | | | | | | 28 | | | | | | | | | | | 28.0 |
| 10N | 27E | 30 | | 07 | | | | | | | | | | | | | | | 7.0 |
| | | | | | | | | | | | | | | | | | TOTAL ACRES | | 160.0 |

POU County: BUTTE

Non-Irrigation Uses: NONE

Other Rights: 33-00087/02034

Remarks: GEN CHANGE OF OWNERSHIP REMOVES DECEASED FATHERS NAME,**26APR96,ABR**

Dates: Exam Made Date:  Verified Date:  Objection Filed Date:

Misc: Water District Number:  Field Inspection Flag:
Presumption Flag:

Exhibit "C"

30896

# Warranty Deed

0212639

0212661

For Value Received ALAN J. AMY AND AFTON LOUISE AMY, HUSBAND AND WIFE

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

BIRCH CREEK RANCHES LLC, a Limited Liability Company

whose current address is 5203 S 11th East
Idaho Falls, Id. 83401

the grantee , the following described premises, in County Idaho, to wit:

**NOTE: THIS IS BEING RE-RECORDED IN CUSTER COUNTY TO CORRECT THE LEGAL DESCRIPTION IN SECTION 30, T.11N., R. 26 E.

SEE ATTACHED EXHIBIT "A"

#212661
Custer County Rec. of
Alliance Title
Time 11:20 A.M.
1-3 1997
Ethel M. Peck, Clerk
Barbara C. Blackburn Deputy
6.00

#
Custer County Rec. of
Alliance Title
+ Escrow
Time 2:20 P.M.
12-30 1996
Ethel M. Peck, Clerk
Wanda J. Murphy Deputy
6.00

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee , his heirs and assigns forever. And the said Grantor s do hereby covenant to and with the said Grantee , that they are the owners in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: December 27th, 1996

Alan J. Amy
ALAN J. AMY

Afton Louise Amy
AFTON LOUISE AMY

STATE OF IDAHO, COUNTY OF Jefferson
On this 27th day of December, 1996,
before me, a notary public in and for said State, personally appeared
Alan J. Amy and Afton Louise Amy

known to me to be the person whose name s are subscribed to the within instrument, and acknowledged to me that executed the same.

NOTARY PUBLIC

Notary Public
Residing at Rigby, Idaho
Comm. Expires 5-12-99

NO. 030896
RECORDED
DEC 30 1996
A.M. 12:05 P.M.
BUTTE COUNTY RECORDER

Ron C

RECEIVED
APR 3 0 1999
Department of Water Resources
Eastern Region

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

| | |
|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | **ORDER DISMISSING AMENDED APPLICATION FOR TRANSFER NO. 3553** |

The Department of Water Resources received a letter from Kent W. Foster, on behalf of Birch Creek Ranches, dated April 19, 1999, withdrawing the above-captioned Application for Transfer No. 3553.

Therefore, it is ORDERED that the contested case on Amended Application for Transfer, No. 3553, dated February 12, 1991, is hereby **DISMISSED**.

DATED this 27th day of April, 1999.

KARL J. DREHER
Director

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of April, 1999, I mailed a true and correct copy of the foregoing **ORDER DISMISSING AMENDED APPLICATION FOR TRANSFER NO. 3553** on the following persons listed below by U.S. mail, postage prepaid and addressed as follows:

Norman C. Young
Idaho Dept. of Water Resources
1301 N. Orchard Street
Boise, ID 83706

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN & CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405

Blair J. Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442

George Petersen, Esq.
PETERSEN MOSS OLSEN
MEACHAM & CARR
485 "E" Street
Idaho Falls, ID 83402

Breck H. Barton, Esq.
BRECK BARTON & ASSOC., PA
P.O. Box 100
Rexburg, ID 83440

Jerry R. Rigby, Esq.
RIGBY THATCHER ANDRUS RIGBY
KAM & MOELLER, CHRTD.
P.O. Box 250
Rexburg, ID 83440-0250

Deborah Drew-Ellis
Legal Secretary

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

| | | |
|---|---|---|
| IN THE MATTER OF APPLICATION FOR PERMIT NO. 32-07252 (formerly no. 31-07646) IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | ) ) ) ) ) ) | **ORDER DISMISSING APPLICATION FOR PERMIT NO. 32-07252 (formerly no. 31-07646)** |

The Department of Water Resources received a letter from Kent W. Foster, on behalf of Birch Creek Ranches, dated April 19, 1999, withdrawing the above-captioned Application for Permit No. 32-07252 (formerly No. 31-07646).

Therefore, it is ORDERED that the contested case on Application for Permit No. 32-07252 (formerly No. 31-07646), dated February 24, 1997, is hereby **DISMISSED**.

DATED this 27th day of April, 1999.

KARL J. DREHER
Director

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of April, 1999, I mailed a true and correct copy of the foregoing **ORDER DISMISSING APPLICATION FOR PERMIT NO. 32-07252 (formerly no. 31-07646)** on the following persons listed below by U.S. mail, postage prepaid and addressed as follows:

Norman C. Young
Idaho Dept. of Water Resources
1301 N. Orchard Street
Boise, ID 83706

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN & CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405

Blair J. Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442

George Petersen, Esq.
PETERSEN MOSS OLSEN
MEACHAM & CARR
485 "E" Street
Idaho Falls, ID 83402

Breck H. Barton, Esq.
BRECK BARTON & ASSOC., PA
P.O. Box 100
Rexburg, ID 83440

Jerry R. Rigby, Esq.
RIGBY THATCHER ANDRUS RIGBY
KAM & MOELLER, CHRTD.
P.O. Box 250
Rexburg, ID 83440-0250

Deborah Drew-Ellis
Legal Secretary

**State of Idaho**
**DEPARTMENT OF WATER RESOURCES**
1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

# FAX TRANSMITTAL COVER SHEET

**DATE:** Sept. 9, 1997

**TO:** Rita Bodell
Eastern

**FROM:** Debbie Ellis
Legal
327-7920

**DOCUMENT DESCRIPTION:** Prehearing Order and Notice of Prehearing and Conference re: Birch Creek Ranches matters.

**COMMENTS:** I can understand the confusion people are having. The 2nd order doesn't reference the 9AM hearing, but it is still on.

**COVER SHEET +** 5 **PAGES**

**PLEASE CONTACT** Debbie Ellis
**IF YOU DO NOT RECEIVE THIS ENTIRE DOCUMENT**

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE**

**STATE OF IDAHO**

| | |
|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C., | **PREHEARING ORDER** |
| and | |
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | |

A prehearing conference regarding Application for Transfer No. 3553 was held on July 8, 1997, in Idaho Falls, Idaho. All parties were present and represented by counsel. At that conference all parties to the Application for Extension of Time to Avoid Forfeiture of Water Right No. 32-000101 were also present and represented by Counsel. Following discussion of these matters and in order to prepare and schedule the above-captioned contested matters for hearing, the Hearing Officer issues this prehearing Order pursuant to IDAPA 37.01.01.512.

(1.) The Hearing Officer finds: that Application for Transfer No. 3553 and the Extension of Time to Avoid Forfeiture of Water Right No. 32-00101 present issues that are related in that the possible forfeiture of Water Right No. 32-00101 is implicated, and that the rights of the parties to these proceedings will not be prejudiced by this consolidation. Therefore,

IT IS HEREBY ORDERED, pursuant to IDAPA 37.01.01.556 that proceedings on Application for Transfer No. 3553 and the Extension of Time to Avoid Forfeiture of Water Right No. 32-00101 shall be consolidated.

(2.) IT IS HEREBY ORDERED that the following schedule shall apply to proceedings



P.02

SEP-09-97 TUE 01:32 PM

on the consolidated matters. Documents to be filed with the Department and served on the parties must be filed and served in accordance with the rules of the Department on or before on the day listed.

**July 25, 1997 -** Parties shall exchange witness lists and file them with IDWR.

**Aug. 15, 1997 -** Parties shall file any dispositive motions with briefs.

**Sept. 5, 1997 -** Parties shall file Response Briefs, if any.

**Sept. 10, 1997 -** 9:00 - 10:30 Hearing on all motions (if any). (Notice of the location to be issued at a later date.)

**Sept. 12, 1997 -** Parties shall exchange prehearing briefs, if any, and exhibit lists and file them with IDWR.

**Sept. 22, 1997 -** Hearing officer site visit (to be arranged).

**Sept. 23 and 24, 1997 -** Hearing on all remaining issues (Notice of the location and time to be issued at a later date.).

(3.) IT IS HEREBY ORDERED that the following procedures shall govern the September 23-24, 1997, hearing on the consolidated matters:

a. Having the ultimate burden of proof, Applicant will proceed first when giving opening statement and with evidence presentation.

b. Protestants will present their opening statements and evidence following the Applicant.

c. Applicant may present rebuttal, if necessary.

d. Opening remarks should briefly explain each party's intended presentation.

e. Written closing will be submitted pursuant to schedule to be developed after hearing.

DATED this 17th day of July, 1997.

Peter R. Anderson

PETER R. ANDERSON
Hearing Officer



SEP-09-97 TUE 01:33 PM P.03

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July, 1997, I mailed a true and correct copy of the foregoing **PREHEARING ORDER** on the following persons listed below by U.S. mail, postage prepaid and addressed as follows:

Norman C. Young
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706

Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN
& CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405

George Petersen, Esq.
PETERSEN MOSS OLSEN
MEACHAM & CARR
485 "E" Street
Idaho Falls, ID 83402

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

Blair J. Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442

Deborah Drew-Ellis
Legal Secretary



SEP-09-97 TUE 01:34 PM P.04

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE**

**STATE OF IDAHO**

| | |
|---|---|
| IN THE MATTER OF THE APPLICATION FOR AMENDMENT OF WATER RIGHT PERMITS NOS. 32-07128 AND 32-07136 IN THE NAME OF TED SORENSON d/b/a SORENSON ENGINEERING, | **NOTICE OF PREHEARING and CONFERENCE** |
| IN THE MATTER OF APPLICATION FOR PERMIT NO. 32-07252 (formerly No. 31-07646) IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | |

The Department of Water Resources has scheduled this matter for prehearing conference as follows:

| | |
|---|---|
| Date: | Wednesday, September 10, 1997 |
| Location: | DEQ Small Conference Rm.<br>900 N. Skyline Drive, Idaho Falls, ID<br>Call (208)525-7161 for directions. |
| Time: | 10:45 a.m. |

This prehearing conference will be held for the purposes set forth in IDAPA 37.01.01.510 (Rule 510) and will be held formally according to IDAPA 37.01.01.512 (Rule 512). The Department's authority to hold hearings in this matter is based in I.C. § 42-211.

The prehearing conference will be conducted in a facility meeting the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the Department within ten (10) days prior to the prehearing conference.



SEP-09-97 TUE 01:34 PM P. 05

DATED this 31st day of July, 1997.

/s/
PETER R. ANDERSON
Hearing Officer

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 31st day of July, 1997, I mailed a true and correct copy of the foregoing **NOTICE OF PREHEARING CONFERENCE** on the following persons listed below by U.S. mail, postage prepaid and addressed as follows:

Norman C. Young
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN
& CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405

Blair J. Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442

George Petersen, Esq.
PETERSEN MOSS OLSEN
MEACHAM & CARR
485 "E" Street
Idaho Falls, ID 83402

Gary D. Slette, Esq.
ROSHOLT ROBERTSON &
TUCKER CHRTD
142 3rd Ave, North
P.O. Box 1906
Twin Falls, ID 83303-1906

Breck H. Barton, Esq.
BRECK BARTON & ASSOC., PA
P.O. Box 100
Rexburg, ID 83440

/s/
DEBORAH DREW-ELLIS
Legal Secretary



SEP-09-97 TUE 01:34 PM P.06

**NOTICE OF CORRECTION**

Notice is hereby given that Application Number 31-07646 filed by Birch Creek Ranches LLC for 17.00 cfs of water in Birch Creek tributary of sinks, was incorrectly numbered.

The Department of Water Resources should have listed this application in Basin 32 (Birch Creek Drainage). The new number assigned to this application will be Number 32-07252.

Any new protest against the granting of this application must be filed with the Idaho Department of Water Resources with a $25 filing fee at 900 N. Skyline Drive, Idaho Falls, ID 83402 on or before August 25, 1997.

Karl Dreher, Director

PUBLISH: August 7 and 14, 1997

# Affidavit of Publication

STATE OF IDAHO }
COUNTY OF TWIN FALLS } SS.

№ 29657

I, Emily McKnight being first duly sworn upon oath, depose and say that I am Principle Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for Two consecutive weeks, commencing with the issue dated August 7, 19 97, and ending with the issue dated August 14, 19 97.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 14th day of Aug in the year of 1997, before me, a Notary Public, personally appeared Emily McKnight, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Laura R. Fettman
Notary Public for Idaho
Residing at Twin Falls, Idaho.
My commission expires: 5/19/2000

# Proof of Publication

# The Post Register

State of Idaho
County of Bonneville

I, S. Bob Bright or Robert Park, first being duly sworn, depose and say: That I am the Production Supervisor or Asst. Prod. Supervisor of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post Register, a newspaper of general circulation, published daily at Idaho Falls, Idaho; said Post Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the First day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than twelve consecutive months and said Post Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post Register for two consecutive (days) weeks, first publication having been made on the 7th day of August, 1997, last publication having been made on the 14th day of August, 1997, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

S Bob Bright

Subscribed and sworn to before me, this 20th day of August , 1997

Patricia O'Malley
Notary Public

My commission expires January 3, 2003

PATRICIA O'MALLEY
NOTARY PUBLIC
STATE OF IDAHO

**NOTICE**
**OF CORRECTION**

Notice is hereby given that Application Number 31-07646 filed by Birch Creek Ranches LLC for 17.00 cfs of water in Birch Creek tributary of sinks, was incorrectly numbered.

The Department of Water Resources should have listed this application in Basin 32 (Birch Creek Drainage). The new number assigned to this application will be Number 32-07252.

Any new protest against the granting of this application must be filed with the Idaho Department of Water Resources with a $25 filing fee at 900 N. Skyline Drive, Idaho Falls, ID 83402 on or before August 25, 1997.

Karl Dreher
Director

Published: August 7, 14, 1997

RECEIVED
AUG 2 5 1997
Department of Water Resources
Eastern Region

**TRIBUNE PUBLISHING COMPANY, INC.**
The Lewiston Morning Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 08/14/97 INVOICE NO. 150955

Account No. 446600

Description 150955NOTICEOFCORRECTI

Times 2 Lines 22

Tab. Lines

$ 30.25

# LEGAL ADVERTISING INVOICE

SOLD TO: IDAHO DEPT. OF WATER RESOURCES
900 N. SKYLINE
IDAHO FALL ID 83402

RB

NOTICE: This is an Invoice of Purchase made by you. Statement will be rendered the first of the month.
**Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.**

---

150955
NOTICE OF CORRECTION

Notice is hereby given that Application Number 31-07646 filed by Birch Creek Ranches LLC for 17.00 cfs of water in Birch Creek tributary of sinks, was incorrectly numbered.

The Department of Water Resources should have listed this application in Basin 32 (Birch Creek Drainage). The new number assigned to this application will be Number 32-07252.

Any new protest against the granting of this application must be filed with the Idaho Department of Water Resources with a $25 filing fee at 900 N. Skyline Drive, Idaho Falls, ID 83402 on or before August 25, 1997.

Karl Dreher
Director

Published statewide and in the Post Register on August 7 & 14, 1997.

RECEIVED
AUG 1 8 1997
Department of Water Resources
Eastern Region

# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 150955NOTICEOFC attached hereto and which is made a part of this affadavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 08/07, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 08/07/97, and the last publication thereof being on the 08/14/97, and said 150955NOTICEOFC was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Karen J. Lewis

SUBSCRIBED AND SWORN BEFORE ME THIS THE 15

day of August 1997

Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires 7/1/03

**TRIBUNE PUBLISHING COMPANY, INC.**
The Lewiston Morning Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 08/14/97 INVOICE NO. 150955

Account No. 446600

Description 150955NOTICEOFCORRECTI

RB

# LEGAL ADVERTISING INVOICE

Times 2 Lines 22

Tab. Lines

SOLD TO: IDAHO DEPT. OF WATER RESOURCES
900 N. SKYLINE
IDAHO FALL ID 83402

$ 30.25

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
**Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.**

---

150955

**NOTICE OF CORRECTION**

Notice is hereby given that Application Number 31-07646 filed by Birch Creek Ranches, LLC for 17.00 cfs of water in Birch Creek tributary of sinks, was incorrectly numbered.

The Department of Water Resources should have listed this application in Basin 32 (Birch Creek Drainage). The new number assigned to this application will be Number 32-07252.

Any new protest against the granting of this application must be filed with the Idaho Department of Water Resources with a $25 filing fee at 900 N. Skyline Drive, Idaho Falls, ID 83402 on or before August 25, 1997.

Karl Dreher
Director

Published statewide and in the Post Register on August 7 & 14, 1997.

# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 150955NOTICEOFC attached hereto and which is made a part of this affadavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 08/07, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 08/07/97, and the last publication thereof being on the 08/14/97, and said 150955NOTICEOFC was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

SUBSCRIBED AND SWORN BEFORE ME THIS THE

day of 1997

Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires

ROSHOLT, ROBERTSON & TUCKER
Chartered
ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
JOHN K. SIMPSON
PATRICK D. MADIGAN
TIMOTHY J. STOVER
NORMAN M. SEMANKO

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

Boise Office
1221 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

RECEIVED
JUL 28 1997
Department of Water Resources

July 25, 1997

Karl J. Dreher, Director
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402

RE: WATER RIGHT APPLICATION #31-07646
WITHDRAWAL OF PROTEST

Dear Director Dreher:

Please be advised that Idaho Power Company hereby withdraws its protest to the above-referenced application, which was submitted by letter from this office dated April 21, 1997.

Very truly yours,

JAMES C. TUCKER

cc: Birch Creek Ranches
c/o Kent Foster

Roger Fuhrman
Idaho Power Company

ROSHOLT, ROBERTSON & TUCKER
Chartered
ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
JOHN K. SIMPSON
PATRICK D. MADIGAN
TIMOTHY J. STOVER
NORMAN M. SEMANKO

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

Boise Office
1221 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

RECEIVED
APR 22 1997
Department of Water Resources
Eastern Region

April 21, 1997

Eastern
RECEIVED
APR 21 1997
Department of Water Resources
Southern Region

Karl J. Dreher, Director
Idaho Department of Water Resources
900 N. Skyline Dr.
Idaho Falls, Idaho 83402

COPY

RE: Water Right Application # 31-07646

Dear Director Dreher:

This letter is being written with regard to the above referenced water right application filed on behalf of Birch Creek Ranches, L.L.C. This office has reviewed that application on behalf of the Idaho Power Company and submits these comments on behalf of the Company.

Our preliminary review of the material filed in support of the application indicates that the applicant seeks to invoke ¶ 9(b) of the April 30, 1993 *Moratorium Order* on the basis that any impact of the proposed water right on prior surface and ground water rights is mitigated by reason of a proposed lease of water rights (attached as Exh. B to the application) appurtenant to other lands located in Jefferson County, Idaho. This proposal raises several issues that we assume the Department will consider in processing the application. The first is whether, and under what conditions, the Department may issue a permit to appropriate water for a specified term, or only so long as the referenced lease remains in effect. Of equal consideration is whether the nonuse of the referenced water rights in Jefferson County will effectively mitigate any impact on prior water rights that may be imposed by the proposed new use in Clark County.

We would appreciate being advised as to the conditions the Department intends to place on this permit, if it is issued, to insure that it complies with the existing moratorium conditions and is otherwise consistent with the applicable provisions of the Idaho Code. If it is necessary to consider this letter as a protest of the application in order to have the above inquiries addressed, please do so. We would also welcome any additional information that the applicant may have that may address the issues raised in this correspondence.

Very truly yours,

WITHDRAWN

JAMES C. TUCKER

Receipt # 50 20046
MB
4/21/97

cc: Birch Creek Ranches, L.L.C.
c/o Holden, Kidwell, Hahn, & Crapo
P.O. Box 50130
Idaho Falls, Idaho 83405

Idaho Department of Water Resources
1341 Fillmore, Suite 200
Twin Falls, Idaho 83301

Bob Stahman/Roger Fuhrman
Idaho Power Company

**M E M O**

**To:** FILE 32-07252 BIRCH CREEK RANCHES

**From:** **RBodell**

**Date:** July 28, 1997

**Subject:** Explanation of file

==========

**This file is a temporary file.** The original file has been sent to the S.O. in care of Peter Anderson A.G. (a). All the original documents have been stamped "copy". Anything not stamped is a new document and should be attached to the original file once that is returned to our office.

Also, the original file was numbered incorrectly. The number was 31-07646 and has been changed to 32-07252.

NOTICE OF CORRECTION

Notice is hereby given that Application Number 31-07646 filed by Birch Creek Ranches LLC for 17.00 cfs of water in Birch Creek tributary of sinks, was incorrectly numbered.

The Department of Water Resources should have listed this application in Basin 32 (Birch Creek Drainage). The new number assigned to this application will be Number 32-07252.

Any new protest against the granting of this application must be filed with the Idaho Department of Water Resources with a $25 filing fee at 900 N. Skyline Drive, Idaho Falls, ID 83402 on or before August 25, 1997.

Karl Dreher
Director

Published statewide and in the Post Register on August 7 & 14, 1997.

# Notice of Correction

Notice is hereby given that Application # 31-07646 filed by Birch Creek Ranches LLC For 17.00 cfs of water in Birch Creek tributary of sinks, was incorrectly numbered.

The Department of Water Resources should have listed this application in Basin 32 (Birch Creek drainage). The new number assigned ~~will be~~ to this application will be # 32-07252.

Any new protests against the granting of this application must be filed with the Idaho Department of Water Resources with a $25 filing Fee at 900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402 on or before _____ 1997.

Karl J. Dreher
Director

Statewide

AD SO
7-25-97

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 25, 1997

RUBY AUSDERHEIDE
CLASSIFIED ADS
TIMES NEWS
PO BOX 548
TWIN FALLS ID 83303

Dear Publisher:

Enclosed you will find a legal notice which we wish to have on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before AUGUST 25, 1997.

Yours truly,

Rita Bodell
Secretary

Enc.

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 25, 1997

KAREN LEWIS
CLASSIFIED ADS
LEWISTON MORNING TRIBUNE
PO BOX 957
LEWISTON ID 83501

Dear Publisher:

Enclosed you will find a legal notice which we wish to have on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

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Yours truly,

Rita Bodell

Rita Bodell
Secretary

Enc.

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 25, 1997

LINDA PORTER
CLASSIFIED ADS
ID STATESMAN
PO BOX 40
BOISE ID 83707

Dear Publisher:

Enclosed you will find a legal notice which we wish to have on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before AUGUST 25, 1997.

Yours truly,

Rita Bodell
Secretary

Enc.

**State of Idaho**
**DEPARTMENT OF WATER RESOURCES**
**900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177**

**EASTERN REGION**

**PHILIP E. BATT**
GOVERNOR

**KARL J. DREHER**
DIRECTOR

July 25, 1997

CATHY VONBORSTEL
CLASSIFIED ADS
POST REGISTER
PO BOX 1800
IDAHO FALLS ID 83403

Dear Publisher:

Enclosed you will find a legal notice which we wish to have on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before AUGUST 25, 1997.

Yours truly,

Rita Bodell
Secretary

Enc.

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 25, 1997

BIRCH CREEK RANCHES LLC
C/O HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

RE: Notice of Application for Permit No. 31-07646
**Renumbered to No. 32-07252**

Dear Applicant:

This office is currently in the process of advertising the **notice of correction** for application for permit in the Post Register on August 7 & 14, 1997. The advertisement will be published once a week for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Harold W. Jones rb
Harold W. Jones
Water Right Supervisor

HWJ/rb

APPLICATION FOR TRANSFER OF

WATER RIGHT NO. #32-7646

COPY

WATER DISTRICT 32-D

WATERMASTER Donald W. Shenton

DATE: May 25, 1997

COMMENTS: HAS THIS WATER RIGHT(S) BEEN DELIVERED WITHIN THE LAST FIVE YEARS?

There has been no delivery of These Rights in the last Five years with exception of 0.10 C.F.S. delivered to Wildlife and Habitat.

___ I do endorse approval of this change.

X I do not endorse approval of this change.

I recommend the following conditions of approval:

See Comment Sheet Attached

Donald W. Shenton
Watermaster

RECEIVED

MAY 2 9 1997

Department of Water Resources

05

COMMENT TO WATER RIGHT TRANSFER #32-7646 05-11-97

The Water Master needs to have all available information available to him to make a Water Master recommendation that considers whether a water right is valid and to make sure that there is no injury to other water users.

In the case of this transfer #32-7646 there are so many unknowns and unanswered questions that it would be inappropriate to endorse this transfer without more information than I have available to me at this time. Some of the concerns and questions I have are as follows.

How do we come up with 17.0 cfs of saved water? I find no where in the decrees or water right licenses any references to such a right. If this is or was a valid Right why has not a request ever been made to deliver this right to a Water Master? Due to the fact this right has never been demanded or used, has it not been forfited by the statute of forfiture through none use?

The only portion of any water delivery I am aware of was the portion of the so called 5.0 cfs of waters that were to be delivered to overflow into the old Birch Creek channel directly from the Birch Creek Hydro Pond. The Diverted use of this water was intended for habitat, and the public interest. How can this water now be assigned to lands to be irrigated without a change in nature of use first and through the proper legal channels and advertising through the I.D.W.R. transfer process. Why would this same 5.0 cfs required spill amount be a full 5.0 cfs water right for irrigation when at the time it was required to be spilled only a small part was delivered to habitat except maybe only on days where there was a FERC inspection. The delivery of these waters ranged from 0 to less than 2.0 cfs on practically all delivery observations by the Water Master and others. So the question would remain how much water this right really amounts to? One other concern on this spill right is that in May 1990 Birch Creek Ranchers advertised to amend the 5.0 cfs bypass flow requirement which was protested by some of the Birch Creek Water users. Why wouldn't this protest be acted upon before a transfer for irrigation or change in nature of use be settled first?

I am also concerned by the fact if any large amount of priority waters were to be moved in with a priority better than existing water right holders there would definitely be serious injury to the water right holders on lower Birch Creek. Maybe this proposed water right would be a 1997 priority where it would be a new nature or use on new lands for irrigation, with a new point of diversion?

I also have concerns about this so-called mitigation. Who are we mitigating with? The injured water user would certainly not be mitigated in any way.

If this is supposed to mitigate the Snake plain aquifer why are not the wells of Amy's not in the North water measurement district? Water resource personnel tell us the wells in the Howe area North of the Highway #22 are not part of the Snake plain aquifer and they are not required to be measured in this newly formed measurement district. It is also my understanding these lands to be irrigated from these mitigation wells are all under CRP. Therefore they are not being pumped anyway, and there would be no net gain if they were left off.

I also have concerns in the future of any saving right, as I now deliver a saved right which saves only a portion of the saving's, but is fully delivered because I.D.W.R. in the past has said as a Water Master you deliver as the decree directs.

Probably this application was filed in the wrong water Dist., as a 31 district water right and not as a 32-D district water right.

With the above concerns, questions and unknowns I could not endorse this transfer.

Donald W Stanton

Water Master
Water District #32-D

RECEIVED

MAY 2 9 1997

Department of Water Resources
Eastern Region

ROSHOLT, ROBERTSON & TUCKER
Chartered
ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
JOHN K. SIMPSON
PATRICK D. MADIGAN
TIMOTHY J. STOVER
NORMAN M. SEMANKO

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

Boise Office
1221 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

May 13, 1997

COPY

State of Idaho
Department of Water Resources
ATTN: Ron Carlson
900 North Skyline Drive
Idaho Falls, Idaho 83402-1718

RECEIVED
MAY 14 1997
Department of Water Resources
Eastern Region

Re: Application for Permit 31-07646--Birch Creek Ranches

Dear Mr. Carlson:

This letter will advise you that our law firm has been retained to represent the interests of the Protestants, Mud Lake Water Users, in protest of the above-captioned application. To the extent that any correspondence or notices are to be mailed to my clients, I would request that you send copies of the same to me at the Twin Falls address listed above. If you have any questions or comments, please do not hesitate to contact me at your convenience.

Yours truly,

GARY D. SLETTE

GDS:jc
cc: Garth Soderquist, Owsley Canal Co.
Andy Dobson, Independent Canal Co.
Keith E. Anderson
Kent W. Foster
George C. Petersen, Jr.
Blair J. Grover
05139701.gds

SD-1603-3 Idaho Department Of Water Resources Date: 05/29/97
Detail Receipt Summary Screen Time: 11:37:03

Rec/No - E021074 AR/No - Receipt Type - CK Doc/No - 57758
From: - HOLDEN KIDWELL HAHN CRAPO Remarks -

MOST CURRENT RECEIPT Receipt Date: 05/25/1995

| Type Of Payment | Fund | FD | PCA | Obj | Subsid | Fee |
|---|---|---|---|---|---|---|
| EXT OF TIME TO AVOID FORF.- 32-00101 | 229 | 21 | 63103 | 1155 | | 100.00 |

Total Due - 100.00

| WR/No | WR Fee | WR/No | WR Fee | WR/No | WR Fee |
|---|---|---|---|---|---|

(Enter=Continue) (GOLD7=Selection Screen) (GOLD8=Cancel)

Receipt #E0212

RECEIVED
JUN 29 1995
Department of Water Resources
Eastern District Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# PROTEST
## RE: EXTENSION OF TIME TO AVOID FORFEITURE WATER RIGHT NO. 32-00101

COMES NOW LaVar Newman and Louise J. Newman, hereinafter referred to as Protestants, and protest the Application for Extension of Time to Avoid a Forfeiture of Water Right No. 32-00101 filed by Birch Creek Ranches for the following reasons:

1. The Applicant does not have a good and sufficient reason for nonapplication to beneficial use of such water during the previous five (5) years.

2. Said water right, sometimes known as the George Woodie Right, was forfeited many years ago through twenty (20) or more continuous years of nonuse, and does not in fact exist.

Even Applicant, believed it had been forfeited, and it is believed Applicant commenced an action in Butte County to establish forfeiture of said water right.

There is no reason to delay the termination of that forfeiture.

3. There are numerous applications which have been filed by Applicant, and most of them have for one reason or another, not been brought to hearing. This matter should be determined, and no more delays or postponements granted Applicant.

4. The application will reduce the quantity of water under existing water rights including those of Protestants.

5. There is nothing in the rules that permit Applicant to extend time until he finds a new place of use. That could be many years and this application will simply become part of the numerous pending applications which should not be allowed.

DATED this 28th day of June, 1995.

GROVER & ARCHIBALD

BLAIR GROVER
Attorney for Protestants

Water Right No. 32-00101

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

RECEIVED
MAY 24 1995
Department of Water Resources
Eastern District Office

Application for Extension of Time to Avoid Forfeiture of a Water Right

Section 42-222 of the Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

Complete fully the following application and submit it to the Department of Water Resources, Statehouse, Boise, Idaho 83720, with the statutory fee.

1. Name of water right holder Birch Creek Ranches
   Post office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130,
   Idaho Falls, Idaho 83405

2. The right was obtained or is evidenced by:
   a. Decree to Thomas J. Weimar (Name) in Case of AGNES B. RENO et al vs. J. R. RICHARDS et al, Dated 09/06/1922 in Ninth District (Name of Court), County of Fremont. Fully describe decree _____

   b. License No. _____ issued by the Department of Water Resources.

   c. Claim No. A32-00101 on file with the Department of Water Resources.

3. Source of water Birch Creek (Name of stream or source) tributary to Sinks

4. Date of priority of right June 4, 1909

5. Amount of water a. 2.9 c.f.s. and/or
   b. _____ acre fee/annum

6. Water is used for Irrigation (Purpose) from 4/1 (Month-Day) to 11/1 (Month-Day)
   _____ from _____ to _____
   _____ from _____ to _____

7. Location of point of diversion is SE ¼ NE ¼ of Section 3
   Township 10N, Range 29E, B.M., in Clark County;
   Additional points of diversion, if any _____

8. Lands irrigated or place of use:

| Twp | Rge | Sec | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 29E | 2 | | | | | | | | | | | 12 | | | | | | 12 |
| | | 3 | | | | 5 | | | | | | | | | 19 | | | 28 | 52 |

Total number of acres irrigated 64

9. Give last date when water was applied to beneficial use irrigation season of 1990
Length of extension of time requested 5 years, or until April 1, 2000

10. Explain fully your reason for requesting an extension of time within which to resume the use of your water right and reasons for non-use Birch Creek Ranches purchased this right after the irrigation season of 1990 and an application to transfer this and several other rights was filed in February 1991. The proposed transfer was protested and the matter bogged down with complications for some time. Eventually the proposed new place of use became unavailable and the matter has been continued until applicant can complete the acquisition of a new proposed place of use.

I hereby assert that no one will be injured by such extension. The information contained in this application is true to the best of my knowledge.

Ted Sorenson

(Signature of Applicant)

Ted Sorenson, Birch Creek Ranches

Subscribed and sworn to before me this 16 day of May, 1995.

David E. Benton

(Notary Public)

My commission expires 11-06-96

---

**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby _____ said application subject to the following conditions or reasons.

_____

_____

_____

_____

_____

Witness my had this _____ day of _____, 19_____.

_____

(Director)

---

For Department Use Only

Received by HCW Date 5-25-95 Time _____ Preliminary
check by _____ Fee $100.00 Receipted by HCW #E021074
Date 5-25-95 Publication prepared by RB Published in Post Register
Dates 6-15 & 22-95 Publication approved by _____ Date _____
Protests filed by : _____
Copies of protests forwarded by _____ Hearing held by _____
Date _____ Recommended for ☐ approval ☐ denial by _____

**RECEIPT**
For Monies Paid
to the
Idaho Department of Water Resource

**Receipt No:** E021221

**Date:**
**Time:** 6/29/1995
13:03:18

**Received**
**From:** GROVER, BLAIR

| Type of Payment | Program Acct | | Amount |
|---|---|---|---|
| PROTEST OF EXT OF TIME- 32-00101 | 63103 | 229 21 1155 | 25.00 |

**Total** $ 25.00

CHECK 15824

Region: EASTERN

Signature: H. Cy Jones

**RECEIPT**
**For Monies Paid**
**to the**
**Idaho Department of Water Resource**

**Receipt No:** E021074

**Date:** 5/25/1995
**Time:** 13:19:57

**Received From:** HOLDEN KIDWELL HAHN CRAPO

| Type of Payment | | Program Acct | Amount |
|---|---|---|---|
| EXT OF TIME TO AVOID FORF.- 32-00101 | 63103 | 229 21 1155 | 100.00 |

**Total** $ 100.00

CHECK 57758

Region: EASTERN

Signature: T C Jones

July 10, 1995

BIRCH CREEK RANCHES
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

RE: Application for Extension of time for Permit No. 32-00101

Dear Applicant:

Enclosed is a copy of a protest filed against the issuance of the above referenced application. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Idaho Code § 42-203):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The applicant must be prepared to present evidence and/or testimony addressing each of the six items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

If this office can be of further assistance, please contact us.

Sincerely,

Harold W. Jones rb

HAROLD W. JONES
Water Rights Supervisor

HWJ:rb
enc.

42-222 Part 2

1/ Duty of Dept to investigate
(Maps, field, documentation)
(1a) check Forfeiture
2/ schedule conference
3/ Possibly Hearing

# Proof of Publication

# The Post-Register

State of Idaho,
County of Bonneville } ss

I, S. BOB BRIGHT or TED DELEZENE, first being duly sworn, depose and say: That I am the Production Supervisor or Asst. Prod. Supervisor of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eight (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for two consecutive weeks, first publication having been made on the 15th day of JUNE, 19 95, last publication having been made on the 22nd day of JUNE, 19 95, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

S Bob Bright

Subscribed and sworn to before me, this 28th day of JUNE, 19 95

Notary Public

My commission expires JULY 1, 19 97

B10

**NOTICE OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF A WATER RIGHT NO. 32-00101**

Notice is hereby given that Birch Creek Ranches, c/o Holden, Kidwell, Hahn & Crapo, PO Box 50130, Idaho Falls, ID 83405, have filed an application for extension of time to avoid forfeiture of a license No. 32-00101.

The right was obtained or is evidenced by a Decree to Thomas J. Weimar in case of Agnes B. Reno et al vs. J.R. Richards et al, Dated 09/06/1922 in Ninth District Court, County of Fremont.

Source of water Birch Creek tributary to sinks.

Date of priority of right June 4, 1909.

Amount of water 2.9 cfs.

Water is used for irrigation from 4/1 to 11/1.

Location of point of diversion is SENE, Sec 3, T10N, R29E, B.M., in Clark County.

Lands irrigated or place of use:
SWSW, SEC 2, SENE, NESE, SEC 3, T10N, R29E, B.M.

Sec. 42-222, Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon failure to apply water to beneficial use for a period of five years. The state may allow an additional five year period of non-use without forfeiture upon a showing of reasonable cause.

The license holder has applied for this extension because: Birch Creek Ranches purchased this right after the irrigation season of 1990 and an application to transfer this and several other rights were filed in February 1991. The proposed transfer was protested and the matter bogged down with complications for some time. Eventually the proposed new place of use became unavailable and the matter has been continued until applicant can complete the acquisition of a new proposed place of use.

Any protest against the granting of this extension may be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID 83402, on or before July 3, 1995.

R. Keith Higginson
Director

Published: June 15, 22, 1995

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-9008
Phone: (208) 327-7900 FAX: (208) 327-7866

RECEIVED
JUL 07 1997
Department of Water Resources
Eastern Region

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 30, 1997

**RE:** In the Matter of Application for Extension of Time to Avoid Forfeiture of Water Right No. 32-00101 in the name of Birch Creek Ranches, L.L.C.

Dear Interested Parties:

I have enclosed a copy of the **ORDER APPOINTING HEARING OFFICER** issued in connection with the above referenced application for extension of time to avoid forfeiture.

Please review the order and contact me directly at (208)327-7953 if you have any questions.

Sincerely,

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Region

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | **ORDER APPOINTING HEARING OFFICER** |

On May 27, 1997, Kent W. Foster on behalf of Birch Creek Ranches (Birch Creek) filed a Petition For Blanket Disqualification of IDWR Employees (petition) with the Department of Water Resources (department) pursuant to IDAPA Rule 37.01.01412 (Procedure Rule 412) seeking to disqualify all department employees as hearing officer in the above captioned matter and seeking appointment of an independent hearing officer.

On May 30, 1997, the department issued an order granting the petition but did not specifically designate the hearing officer to be appointed, since the hearing officer determination had not yet been made. The department has since determined a hearing officer to be designated in this order.

**ORDER**

IT IS THEREFORE, HEREBY ORDERED that Peter Anderson, Idaho Deputy Attorney General, Natural Resources Division, is appointed to serve as the hearing officer in this contested case proceeding, pursuant to IDAPA 37.01.01.410, and is hereby authorized to hear this matter on behalf of the Idaho Department of Water Resources in accordance with the standard scope of authority under IDAPA 37.01.01.413, and the provisions of chapter 52, title 67, Idaho Code, and IDWR's Rules of Procedure.

IT IS FURTHER ORDERED that all other motions pending in this matter, and the setting of all prehearing deadlines and a hearing date shall be addressed by the newly appointed hearing officer.

DATED this 30th day of June, 1997.

KARL J. DREHER
Director

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 30th day of June, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER APPOINTING HEARING OFFICER** to the following:

Birch Creek Ranches, L.L.C.
c/o Kent W. Foster
HOLDEN KIDWELL HAHN
& CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405-0130

Blair J. Grover
GROVER AND FAIRCHILD
215 Farnsworth Way
P.O. Box 36
Rigby, ID 83442-0036

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 9, 1995

BIRCH CREEK RANCHES
C/O HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

RE: Application for Extension of time to avoid forfeiture No. 32-00101

Dear Applicant:

The Department of Water Resources acknowledges receipt of your water right permit. This office is currently in the process of advertising the application in the Post Register on June 15 & 22, 1995. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in about five weeks. State Office Personnel will conduct a complete review prior to final processing of the applications and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Harold W. Jones rb

Harold W. Jones
Water Right Supervisor

HWJ/rb

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION
June 9, 1995

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

POST REGISTER
PO BOX 1800
IDAHO FALLS ID 83403

Dear Publisher:

Enclosed you will find a legal notice which we wish to have published on the date indicated in your newspaper. If you cannot publish the notice on the proposed date, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before July 3, 1995.

Yours truly,

Rita Bodell
Rita Bodell
Secretary

Enc.

Faxed 6-9-95
Confirmed
Kathy

**NOTICE OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF A WATER RIGHT NO. 32-00101**

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The right was obtained or is evidenced by a Decree to Thomas J. Weimar in Case of Agnes B. Reno et al vs. J.R. Richards et al, Dated 09/06/1922 in Ninth District Court, County of Fremont.
Source of water Birch Creek tributary to sinks.
Date of priority of right June 4, 1909.
Amount of water 2.9 cfs.
Water is used for irrigation from 4/1 to 11/1.
Location of point of diversion is SENE, Sec 3, T10N, R29E, B.M., in Clark County.
Lands irrigated or place of use:
SWSW, SEC 2, SENE, NESE, SEC 3, T10N, R29E, B.M.

Sec. 42-222, Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon failure to apply water to beneficial use for a period of five years. The state may allow an additional five year period of non-use without forfeiture upon a showing of reasonable cause.
The license holder has applied for this extension because: Birch Creek Ranches purchased this right after the irrigation season of 1990 and an application to transfer this and several other rights were filed in February 1991. The proposed transfer was protested and the matter bogged down with complications for some time. Eventually the proposed new place of use became unavailable and the matter has been continued until applicant can complete the acquisition of a new proposed place of use.

Any protest against the granting of this extension may be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, ID 83402, on or before July 3, 1995.

R. Keith Higginson
Director

Published in the Post Register on June 15 & 22, 1995.

RECEIVED
JUN 0 3 1997
Department of Water Resources
Eastern Region

Blair Grover
GROVER & ARCHIBALD
P.O. Box 36
215 Farnsworth Way
Rigby, ID 83442
(208) 745-6653

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | | |
|---|---|---|
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 31-07646 IN THE NAME OF BIRCH CREEK RANCHES, L. L. C. | ) ) ) ) ) ) | OBJECTION TO BLANKET DISQUALIFICATION |

COMES NOW Lavar Newman, by and through his undersigned attorney of record, Blair Grover, and for the record objections to the blanket disqualification of IDWR employees.

DATED this 30 day of May, 1997.



BLAIR GROVER
Counsel for Lavar Newman
P.O. Box 36
Rigby, ID 83442
(208) 745-6653

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Rigby, Idaho; that I served a copy of the foregoing document or pleading upon the following person(s) at the addresses below their names either by hand delivering, by facsimile transmission (Fax), or by mailing said document in the United States mail with the correct postage thereon, a true and correct copy thereof this 1 day of June, 1997.

Served:

Idaho Department of Water Resources (Mail)
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720

George Petersen, Esq. (Mail)
485 "E" Street
Idaho Falls, ID 83402

Idaho Department of Water Resources (Mail)
900 N Skyline Dr.
Idaho Falls, ID 83402

Kent W. Foster, Esq. (Mail)
P.O. Box 50130
Idaho Falls, ID 83405

Gary Slette, Esq. (Mail)
P.O. Box 1906
Twin Falls, ID 83303-1906

BLAIR GROVER

Blair Grover
GROVER & ARCHIBALD
P.O. Box 36
215 Farnsworth Way
Rigby, ID 83442
(208) 745-6653

RECEIVED
JUN 0 3 1997
Department of Water Resources
Eastern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | | |
|---|---|---|
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L. L. C. | ) | OBJECTION TO BLANKET DISQUALIFICATION |

COMES NOW Lavar Newman, by and through his undersigned attorney of record, Blair Grover, and for the record objections to the blanket disqualification of IDWR employees.

DATED this 30 day of May, 1997.

BLAIR GROVER
Counsel for Lavar Newman
P.O. Box 36
Rigby, ID 83442
(208) 745-6653

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Rigby, Idaho; that I served a copy of the foregoing document or pleading upon the following person(s) at the addresses below their names either by hand delivering, by facsimile transmission (Fax), or by mailing said document in the United States mail with the correct postage thereon, a true and correct copy thereof this 8 day of May 1997.

Served:

Idaho Department of Water Resources (Mail)
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720

George Petersen, Esq. (Mail)
485 "E" Street
Idaho Falls, ID 83402

Idaho Department of Water Resources (Mail)
900 N Skyline Dr.
Idaho Falls, ID 83402

Kent W. Foster, Esq. (Mail)
P.O. Box 50130
Idaho Falls, ID 83405

BLAIR GROVER

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

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS, P.A.
DALE W. STORER
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
SHAN B. PERRY

U.S. BANK OF IDAHO BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL HOLDNLAW@SRV.NET

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

May 30, 1997

RECEIVED
JUN 0 2 1997
Department of Water Resources
Eastern Region

Mr. Harold Jones
Idaho Department of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402-1718

Re: Application for Extension of Time to Avoid Forfeiture of Water Right #32-00101

Dear Mr. Jones:

Pursuant to your request we are enclosing copies of the following documents with this letter:

1. Application for Extension of Time to Avoid Forfeiture of Water Right;

2. Letter from our office to you dated May 24, 1995;

3. Letter from you to our office dated June 9, 1995;

4. Copy of Protest filed by Blair Grover on behalf of Newmans dated June 28, 1995; and

5. Copy of your letter to our office dated July 10, 1995, enclosing copy of Protest.

I did search our file again but could not find any evidence that we have received a receipt for the $100. I believe it was our law firm's check, and if you would like us to hunt for it, it may be possible for us to find a copy.

If we can provide any assistance, please let us know.

Very truly yours,

Kent W. Foster

Enclosures
G:\WPDATA\KWF\6936\JONE0530.LTRbc

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 30, 1997

**RE:** In the Matter of Application for Extension of Time to Avoid Forfeiture of Water Right No. 32-00101 in the name of Birch Creek Ranches, L.L.C.

Dear Interested Parties:

I have enclosed a copy of the **ORDER GRANTING PETITION** issued in connection with the above referenced extension of time to avoid forfeiture.

Please review the order and contact me directly at (208)327-7953 if you have any questions.

Sincerely,

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Region

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | **ORDER GRANTING PETITION** |

On May 27, 1997, Kent W. Foster on behalf of Birch Creek Ranches (Birch Creek) filed a Petition For Blanket Disqualification of IDWR Employees (petition) with the Department of Water Resources (department) pursuant to IDAPA Rule 37.01.01412 (Procedure Rule 412) seeking to disqualify all department employees as hearing officer in the above captioned matter and seeking appointment of an independent hearing officer.

Section 67-5252, Idaho Code, and Rule 412 of the department's Rules of Procedure provide that a hearing officer's status as an employee of the agency is cause for disqualification.

**ORDER**

IT IS THEREFORE, HEREBY ORDERED that Birch Creek's petition in connection with the above captioned matter is **GRANTED.**

IT IS FURTHER HEREBY ORDERED that the department will appoint a hearing officer who is not an employee of the department.

DATED this 30th day of May, 1997.

L. GLEN SAXTON, Chief
Water Allocation Bureau

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 30th day of May, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER GRANTING PETITION** to the following:

Birch Creek Ranches, L.L.C.
c/o Kent Foster
HOLDEN KIDWELL HAHN
& CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

Blair Grover
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

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

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS, P.A.
DALE W. STORER
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
FREDERICK J. HAHN, III

WEST ONE BANK BLDG.
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

RECEIVED
MAY 24 1995
Department of Water Resources
Eastern District Office

May 24, 1995

Mr. Harold Jones
IDAHO DEPARTMENT OF
WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718

Dear Harold:

We are enclosing with this letter an application for extension of time to avoid forfeiture of a water right together with our check in the amount of $100 for the filing fee. Please let us know if there are concerns or questions that we might be able to assist with.

This is the water right that Birch Creek Ranches purchased from George Woodie in late 1990. As we understand it the water master records indicate that the last time water was delivered to Mr. Woodie under this right was during the irrigation season of 1990.

Thank you for your kind attention to this matter.

Very truly yours,

Kent W. Foster

Enclosure
G:\WPDATA\KWF\6936\IDWR0524.LTR:sjw

RECEIVED
MAY 23 1997
Department of Water Resources
Eastern Region

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
330 Shoup Avenue, Third Floor
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR EXTENTION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES |

COMES NOW the applicant, Birch Creek Ranches, L.L.C., and hereby asserts a blanket disqualification for cause of all employees of IDWR under IDAPA 37.01.01, Rule 412, of the Rules of Procedure of the Department of Water Resources, and requests appointment of an independent hearing officer for the purposes of hearing and deciding the above entitled contested matter. To applicant's knowledge no hearing officer has yet been assigned to hear the protests to applicant's pending application for extension.

Respectfully submitted this 22 day of May, 1997.

Kent W. Foster, Esq.
Holden, Kidwell, Hahn & Crapo, P.L.L.C.

## CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof.

**DOCUMENT SERVED:** PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES

**ATTORNEYS SERVED:**

IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720 *[First Class Mail]*

IDAHO DEPARTMENT OF WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718 *[First Class Mail]*

Blair Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, Idaho 83442-0036 *[First Class Mail]*

Dated: 5/22/97

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\KWF\6936\BRCH521.DQF:sjw

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
330 Shoup Avenue, Third Floor
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

COPY

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

| | | |
|---|---|---|
| IN THE MATTER OF APPLICATION FOR PERMIT NO. 31-07646 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | ) ) ) ) ) | PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES |

COMES NOW the applicant, Birch Creek Ranches, L.L.C., and hereby asserts a blanket disqualification for cause of all employees of IDWR under IDAP 37.01.01, Rule 412, of the Rules of Procedure of the Department of Water Resources, and requests appointment of an independent hearing officer for the purposes of hearing and deciding the above entitled contested matter. To applicant's knowledge no hearing officer has yet been assigned to hear the protests to applicant's pending application for permit.

Respectfully submitted this 22 day of May, 1997.

Kent W. Foster, Esq.
Holden, Kidwell, Hahn & Crapo, P.L.L.C.

## CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof.

**DOCUMENT SERVED:** PETITION FOR BLANKET DISQUALIFICATION OF IDWR EMPLOYEES

**ATTORNEYS SERVED:**

IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720 *[First Class Mail]*

IDAHO DEPARTMENT OF WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718 *[First Class Mail]*

Blair Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, Idaho 83442-0036 *[First Class Mail]*

George Petersen, Esq.
PETERSEN, MOSS, OLSEN, MEACHAM & CARR
485 "E" Street
Idaho Falls, Idaho 83402 *[First Class Mail]*

Gary Slette, Esq. *[First Class Mail]*
ROSHOLT, ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, Idaho 83303-1906

Dated: 5/22/97

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\KWF\6936\BRCH0521.DQF:sjw

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
NOV 23 1993
Department of Water Resource
Eastern District Office

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER NO. 3553 (WATER RIGHTS NOS. 32-00067, 32-00090, 32-00093, 32-99968, 32-00089, 32-00069, 32-00092, 32-00061C, 32-00091) IN THE NAME BIRCH CREEK RANCHES, INC. AND APPLICATION FOR TRANSFER NO. 4166 (WATER RIGHTS NOS. 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, 32-00079) IN THE NAME OF MAC OR BETTY WAGONER, | STIPULATION FOR BIFURCATION OF WATER RIGHT TRANSFER AND WITHDRAWAL OF OBJECTION TO WATER RIGHT TRANSFER |

Comes now D & D Ranches, by and through their counsel of record, George C. Peterson and represents as follows:

1. There is currently pending before the Department of Water Resources an application for exchange of water rights between Birch Creek Ranches, Inc. and Mac and Betty Wagoner. Mac and Betty Wagoner propose to exchange water right numbers with Birch Creek Ranches, Inc. water right numbers. The effect of the exchange would be to provide Mac and Betty Wagoner with the oldest decreed rights in Birch Creek in the amount of 4 cfs of flow as measured at their point of diversion.

2. The proposed exchange of water rights described in Paragraph 1 is part of a currently pending proceeding before the Department of Idaho Water Resources involving additional proposed transfers of water rights by Birch Creek Ranches, Inc.

3. D & D Ranches has intervened and objected to all proposed transfers, including the proposed exchange of water rights between Wagoner and Birch Creek Ranches, Inc.

4. In an effort to expedite the above proceedings, D & D Ranches agrees that the Department of Water Resources bifurcate the above proceedings, dealing first with the exchange of water rights between Wagoners and Birch Creek Ranches, Inc. and second, with the proposed transfer of water rights by Birch Creek Ranches, Inc.. Therefore, D & D Ranches does hereby agree and represent to the Idaho Department of Water Resources as follows:

1. D & D Ranches does not object to the bifurcation of the above proceedings into two parts, with the Idaho Department of Water Resources to first address and determine the proposed exchange of the following water right numbers totaling 6 cfs

| | | |
|---|---|---|
| #A32-0102 | 4.00cfs | priority date 5/10/1889 |
| #A32-00073 | 0.20cfs | priority date 5/15/1909 |
| #A32-00086 | 0.20cfs | priority date 5/01/1911 |
| #A32-00077 | 0.20cfs | priority date 5/15/1910 |
| #A32-00085 | 0.20cfs | priority date 5/10/1910 |
| #A32-00078 | 0.20cfs | priority date 5/15/1911 |
| #A32-00087 | 0.20cfs | priority date 5/01/1912 |
| #A32-00079 | 0.80cfs | priority date 5/15/1913 |

with water right numbers held by Birch Creek Ranches, Inc. and totaling 4 cfs

| | | |
|---|---|---|
| #32-0067 | 3.20cfs | priority date 9/10/1882 |
| Portion of #32-0090 for | 0.80cfs | priority date 5/10/1886 |

2. D & D Ranches agrees and requests that their objection to the exchange of the water rights described in Paragraph 1 above be withdrawn and do further request that the Department issue an order approving said exchange granting to Wagoner the below described

water rights and priorities as measured at Wagoner's point of diversion to-wit:

| | | |
|---|---|---|
| #32-0067 | 3.20cfs | priority date 9/10/1882 |
| Portion of #32-0090 for | 0.80cfs | priority date 5/10/1886 |

And granting to Birch Creek Ranches, Inc. the below described water rights measured at the current point or points of diversion held by Birch Creek Ranches, Inc., that is those points of diversion located physically on or adjacent to the Simmons Ranch, to-wit:

| | | |
|---|---|---|
| #A32-0102 | 4.00cfs | priority date 5/10/1889 |
| #A32-00073 | 0.20cfs | priority date 5/15/1909 |
| #A32-00086 | 0.20cfs | priority date 5/01/1911 |
| #A32-00077 | 0.20cfs | priority date 5/15/1910 |
| #A32-00085 | 0.20cfs | priority date 5/10/1910 |
| #A32-00078 | 0.20cfs | priority date 5/15/1911 |
| #A32-00087 | 0.20cfs | priority date 5/01/1912 |
| #A32-00079 | 0.80cfs | priority date 5/15/1913 |

3. D & D Ranches specifically reserve any objections to the transfer of any water rights held by Birch Creek Ranches, Inc., which are to be determined in the second stage of the bifurcated proceedings wherein the Department will address the proposed transfer of water rights by Birch Creek Ranches, Inc., with such reservation of objections applying to any and/or all water rights proposed to be transferred by Brich Creek Ranches, Inc. including but not limited to the extent of the right, its priority, or any issue involved with the desired transfer of said right or rights by Birch Creek Ranches, Inc. whether the same rights are now held by Birch Creek Ranches, Inc. and currently sought to be transferred or whether said rights are acquired from Mac and Betty Wagoner by Birch Creek Ranches, Inc. and then sought to be transferred.

DATED this ____ day of September, 1993.

D & D RANCHES, Protestant

By: Jim D Mordaunt

Approved By: George Peterson
George Peterson
Counsel for D & D Ranches

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22 day of ~~September~~ November, 1993, I mailed a true and correct copy of the foregoing Stipulation for Bifurcation of Water Right Transfer and Withdrawal of Objection to Water Right Transfer to the following individuals at the address listed, postage prepaid thereon:

Kent Foster, Esq., P.O. Box 50130, Idaho Falls, ID 83405
George Peterson, Esq., 485 "E" Street, Idaho Falls, ID 83402
Blair Grover, Esq., P.O. Box 36, Rigby, ID 83442
IDWR, 150 Shoup Avenue, Suite 115, Idaho Falls, ID 83402
Don Shenton, Dubois, ID 83423
Jim D Mordaunt, P.O. Box 5, Rexburg, ID 83440
Ted S. Sorenson, 550 Linden, Idaho Falls, ID 83405
Lewis Newman, Monteview, ID 83435
LaVar Newman, Monteview, ID 83435
Alva Harris, 171 S Emerson, Shelley, ID 83274
Steve Phillips, Box 15, Dubois, ID 83423

Breck Barton

RECEIVED
MAY - 6 1991
Department of Water Resources
Eastern District Office

George C. Petersen, Jr., Esq.
PETERSEN, MOSS, OLSEN, MEACHAM & CARR
485 "E" Street
Idaho Falls, Idaho 83402
(208) 523-4650

Attorneys for D & D Enterprises, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF THE APPLICATION OF BIRCH CREEK RANCH'S, INC., TO EXCHANGE WATER RIGHTS, SELL WATER RIGHTS, AND CHANGE POINT OF DIVERSION AND PLACE OF USE OF WATERS OF BIRCH CREEK THE SUBJECT OF PERMIT NO'S 32-0061C, 32-0090, 32-0093, 32-0068, 32-0069, 32-0089, 32-0092, 32-0091, AND 32-0101. | **PROTEST OF D & D ENTERPRISES, INC.** |

D & D Enterprises, Inc., an Idaho corporation, protestant, by and through its counsel of record, George C. Petersen, Jr., of the firm of PETERSEN, MOSS, OLSEN, MEACHAM & CARR, Attorneys, in care of George C. Petersen, Jr., of PETERSEN, MOSS, OLSEN, MEACHAM & CARR, 485 "E" Street, Idaho Falls, Idaho 83402, hereby enters its protest against approval of the application of Birch Creek Ranch's, Inc., to exchange water rights, sell water rights and change point of diversion and place of use of waters of Birch Creek the subject of permit no's. 32-0061C, 32-0090, 32-0093, 32-0068, 32-0069, 32-0089, 32-0092, 32-0091, and 32-0101, on the following grounds:

1. D & D Enterprises Inc., a water user of the Birch Creek waters, is situated downstream from the properties described in that certain application of Birch Creek Ranch's, Inc., wherein Birch Creek Ranch's, Inc., propose an exchange of the water rights, refer to a sale of certain water rights and further propose a change of point of diversion and place of use of waters of Birch Creek. From a preliminary review of the application of Birch Creek Ranch's, Inc., it appears that Birch Creek Ranch's, Inc., have totally failed to address bed loss, associated with said proposed change of point of diversion together with any other loss that might take place by the proposed transfer of the waters of Birch Creek to a new point of diversion. The failure to make an appropriate adjustment for loss of water occurring as a result of the transfer of the Birch Creek water from the old point of diversion to the new point of diversion would be detrimental to, and not in the best interest of, other downstream water users of Birch Creek and in particular this protestant.

2. Protestant has a number of queries concerning the validity of some of the proposed water right proposed to be transferred and thus requests that the burden of proof be on applicant to prove that said water rights to be transferred are in fact legitimate and bonafide and should be considered for transfer as proposed by applicant.

3. Applicant further fails to establish a method and/or procedure by which the water master could administer a bed loss in making an appropriate distribution of the waters of Birch Creek to

applicant as a water user as compared to the other water users effected by the proposed transfer all to the end that the requested transfer will be equitable to all water users of Birch Creek.

4. In the event the application, heretofore addressed, is approved, said approval would substantially effect the water rights of this applicant and in effect applicant would be injured by the transfer, all in violation of the rights intended to be protected under Idaho Code § 42-222.

5. Approval of the application of applicant as proposed, would constitute an enlargement of the use of the water rights of applicant, that is, would increase applicant's water rights all of which would result in a substantial loss to be suffered by this protestant and other water users situated downstream.

6. The change sought by applicant is not in the local public interest.

DATED This 6th day of May, 1991.

PETERSEN, MOSS, OLSEN,
MEACHAM & CARR

George C. Petersen, Jr.
Attorneys for
D & D Enterprises, Inc.

jih/2131G

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on the 6th day of May, 1991, I served a true and correct copy of the foregoing document on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered as defined by Rule 5(b), I.R.C.P.

Persons Served:

Method of Service:

(X) mail ( ) hand ( ) fax

Jerry R. Rigby, Esq.
P.O. Box 250
Rexburg, ID 83440-0250

Kent Foster, Esq.
P.O. Box 50130
Idaho Falls, ID 83405

Breck Barton, Esq.
P.O. Box 100
Rexburg, ID 83440

Mr. James DeMordaunt
P.O. Box 5
Rexburg, ID 83440

Mac and Betty Wagoner
P.O. .Box 296
Dubois, ID 83423

Mr. Ted Sorenson
550 Linden Dr.
Idaho Falls, ID 83401

Mr. Steve Phillips
HC 61 Box 1260
Dubois, ID 83423

Don Shenton
Dubois, ID 83423

George C. Petersen, Jr.

Form 222
1-87

FEB 12 1991

Page 1 of 22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

# AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 1

Name of applicant Birch Creek Ranches, Inc. Phone (208) 523-0620

Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130, Idaho Falls, ID 83405

### A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes Birch Creek Ranches and Mac and Betty Wagoner have resolved the dispute raised by Wagoners' protest in this proceeding and which was the subject of a separate action in Clark County District Court in Case No. 2-462. See attached copy of Memorandum of Agreement. (Attachment No. 1)

### B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1.

| Right Number | Priority | Amount (cfs/ac-ft) | Nature of Use | Period of Use |
|---|---|---|---|---|
| | | | | to |
| | | See Attachment No. 2 | | to |
| | | | | to |
| | | | | to |

2. Total amount of water being transferred 17.5 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Birch Creek tributary to Sinks

4. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | SE | SW | 34 | 9N | 30E | Clark | New Reno Diversion |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

5. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 8N | 31E | 12 | | | | | | | | | | | | 40 | | 40 | 40 | 40 | 160 |
| | 32E | 10 | | | | | | | | | 40 | 40 | | | 40 | 40 | 40 | 40 | 240 |
| | | 11 | | | | | | | 40 | 40 | 40 | 40 | 40 | 40 | | | | | 240 |
| | | 14 | | | | | 40 | 40 | | | | | | | | | | | 80 |
| | | 1 | | | | | | | | | | | | | 40 | | | 40 | 80 |
| 8N | 33E | 6 | | | | | | | | | 40 | | | 40 | | 40 | 40 | | 160 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres 960

## PART 1

6. General Information:

a. Description of diversion system An earthen dam with a buried PVC liner has been placed in Birch Creek at the point of diversion to divert water through the new lined power channel to the power plant and thence into the lower portion of the old Reno Ditch.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? X Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the effect on the land now irrigated if the place of use is changed pursuant to this transfer:

Land will no longer be irrigated.

d. Remarks:

.1 cfs of the combination of 32-0091, 32-0092, and 32-0093 is still appurtenant to the the Blue Dome property and is not sought by this application to be transferred. See Transfer No. 2165. If .1 cfs is deducted proportionately from these three rights, the remaining amounts owned by applicant are .48913 cfs, 2.44565 cfs, and 1.56522 cfs respectively.

## ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 ____.

_____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 32-0090 Decreed to C. B. Watts

   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.

   dated 09/06/1922 in 9th District Court county of Fremont

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Birch Creek tributary to Sinks

4. Date or priority 05/10/1886

5. Water is used for the following purpose:

   amount 1.6 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 3

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 4

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0093, 32-0068, 32-0061C, 32-0069, 32-0089, 32-0092, and 32-0091.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion: See Attachment No. 3

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use: See Attachment No. 4

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)* But see accompanying amended application for transfer to transfer this portion to Mac and Betty Wagoner.

1. amount .8 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion: See Attachment No. 3

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use: See Attachment No. 4

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 32-0093 Decreed to Edward M. Kaufman
   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
   dated 09/06/1922 in 9th District Court county of Fremont

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Birch Creek tributary to Sinks

4. Date or priority 05/10/1886

5. Water is used for the following purpose:

   amount 1.56522 cfs (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 1.56522 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 3

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 4

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
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Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0090, 32-0068, 32-0061C, 32-0069, 32-0089, 32-0092, and 32-0091.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

   a. Decree No. 32-0068 Decreed to Wood Livestock Co.

   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.

   dated 09/06/1922 in 9th District Court county of Fremont

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Birch Creek tributary to Sinks

4. Date or priority 05/10/1887

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 3

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 4

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0090, 32-0093, 32-0061C, 32-0069, 32-0089, 32-0092, and 32-0091.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

## B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

## C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 32-0061C Decreed to Jerome F. Reno

   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.

   dated 09/06/1922 in 9th District county of Fremont

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. 265 and 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Birch Creek tributary to Sinks

4. Date or priority 05/10/1888

5. Water is used for the following purpose:

   amount .4 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right .4 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 3

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 4

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0090, 32-0093, 32-0068, 32-0069, 32-0089, 32-0092, and 32-0091.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ for _____ purposes from _____ to _____ (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____ (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____ (cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____ (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____ (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____ (cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 32-0069 Decreed to Wood Livestock Co.

   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.

   dated 09/06/1922 in 9th District Court county of Fremont

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Birch Creek tributary to Sinks

4. Date or priority 05/10/1888

5. Water is used for the following purpose:

   amount 3.2 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 3

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 4

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0090, 32-0093, 32-0068, 32-0061C, 320089, 32-0092, and 32-0091.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 32-0089 Decreed to C. B. Watts

   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.

   dated 09/06/1922 in 9th District Court county of Fremont

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Birch Creek tributary to Sinks

4. Date or priority 05/10/1888

5. Water is used for the following purpose:

   amount 2.5 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 2.5 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 3

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 4

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0090, 32-0093, 32-0068, 32-0061C, 320069, 32-0092, and 32-0091.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

### A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 32-0092 Decreed to Edward M. Kaufman
      in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.
      dated 09/06/1922 in 9th District Court county of Fremont
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 2165 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Birch Creek tributary to Sinks
4. Date or priority 05/10/1888
5. Water is used for the following purpose:
   amount 2.44565 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 2.44565 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion: See Attachment No. 3

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 4

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0090, 32-0093, 32-0068, 32-0061C, 32-0069, 32-0089, and 32-0091.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

   a. Decree No. 32-0091 Decreed to Edward M. Kaufman

   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.

   dated 09/06/1922 in 9th District Court county of Fremont

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Birch Creek tributary to Sinks

4. Date or priority 05/01/1901

5. Water is used for the following purpose:

   amount .48913 cfs (cfs/ac-ft) for Irrigation purposes from 04/01 to 11/01

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right .48913 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 3

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 4

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

9. Describe any other water rights used for the same purpose as described above 32-0090, 32-0093, 32-0068, 32-0061C, 32-0069, 32-0089, and 32-0092.

## PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

### B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

### C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

*(Attach one copy for each right)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

   a. Decree No. 32-0101 Decreed to Thomas J. Weimer

   in case of Agnes B. Reno, et al. vs. J. R. Richards, et al.

   dated 09/06/1922 in 9th District Court county of Fremont

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☒ Other See Attachments Nos. 5 & 6

3. Source of water Birch Creek tributary to Sinks

4. Date or priority 06/04/1909

5. Water is used for the following purpose:

   amount 2.9 cfs for Irrigation purposes from 04/01 to 11/01
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

6. Total amount of water under right 2.9 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | SE | SE | NE | 3 | 10N | 29E | Clark | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 29E | 2 | | | | | | | | | | | 12 | | | | | | 12 |
| | | 3 | | | | 5 | | | | | | | | | 19 | | | 28 | 52 |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres 64.0

9. Describe any other water rights used for the same purpose as described above 32-0072

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

## B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total acres _____

## C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

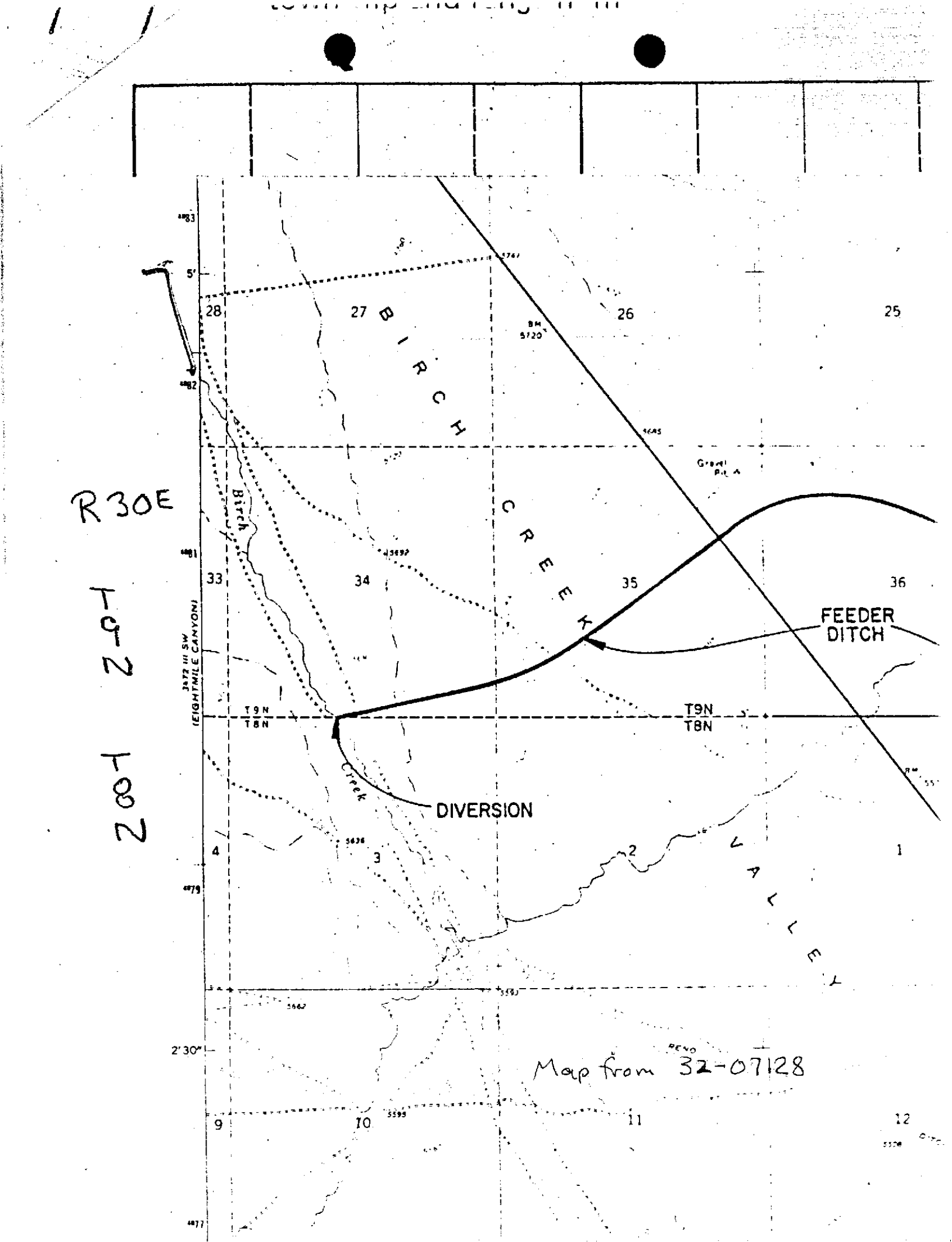
2. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total acres _____


R30E
T9N
T8N
28
27
26
25
33
34
35
36
4
3
2
1
9
10
11
12
BIRCH
CREEK
Birch
Creek
FEEDER
DITCH
DIVERSION
T9N
T8N
T9N
T8N
5'
2'30"
(EIGHTMILE CANYON)
RENO
Map from 32-07128

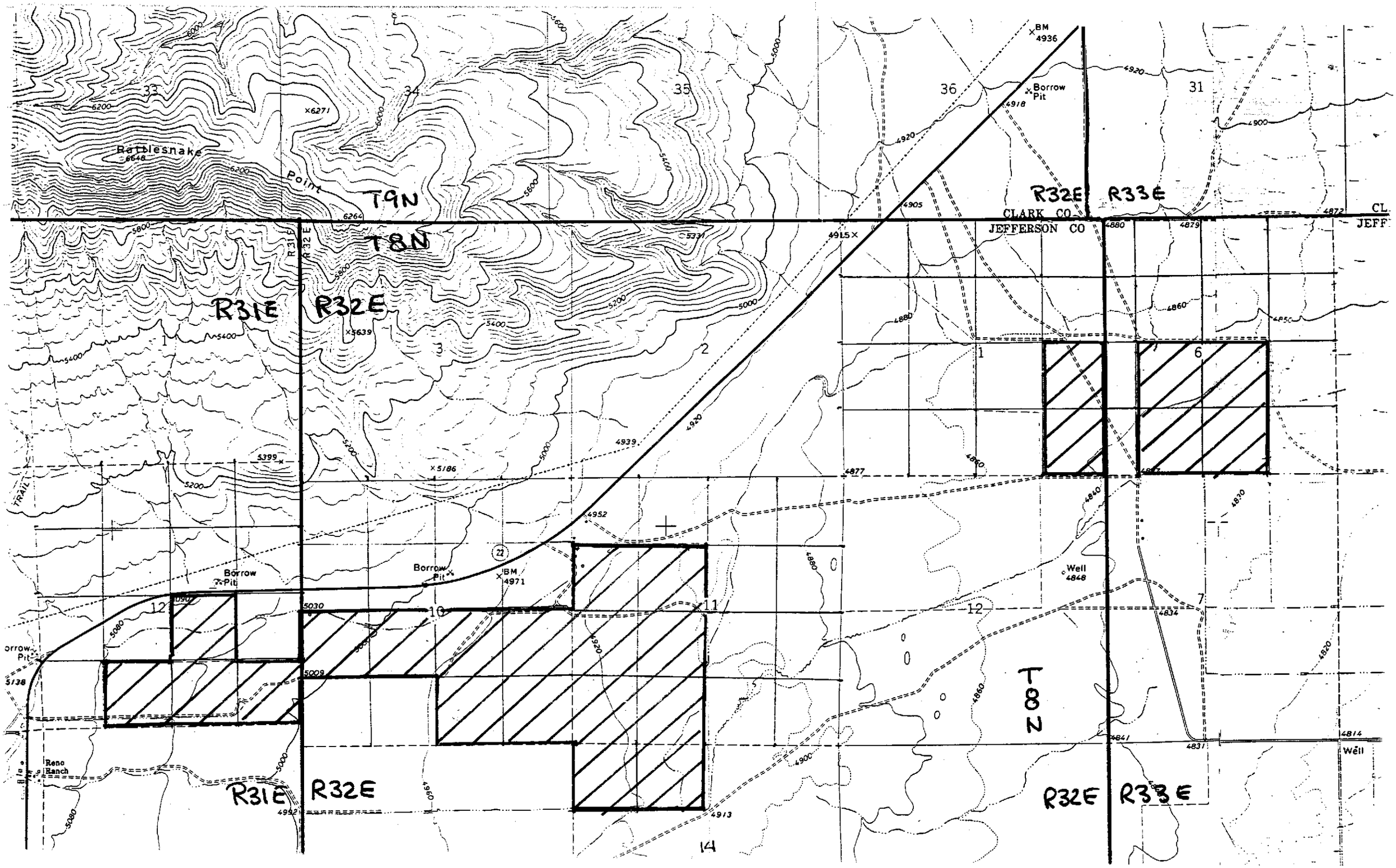
Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



## PART 3

**B. CHANGES IN NATURE OF USE**

| 1 | New Nature of Use | Amount (cfs/ac-ft) | Hours/days/year | Period of Use |
|---|---|---|---|---|
| | | | | _____ to _____ |
| | | | | _____ to _____ |

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Ted A. Arens
(Signature of Applicant)

Subscribed and sworn to before me this 6th day of February, 19 91.

John G. Simmons
(Notary Public)

My commission expires 2-19-91

## FOR DEPARTMENT USE ONLY

Transfer contains 22 pages and 6 attachments

Received by HWJ Date 2-12-91 Protest filed by _____

Prelim. check by KAW Fee $50.00

Receipted by HWJ E015683 Date 2-12-91

Published in Statewide Copies of protest forwarded by _____

Pub. dates 4-18 & 25-91 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

Donald L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO
P.O. Box 50130
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLARK

| | |
|---|---|
| TED S. SORENSON and GAYLE SORENSON, dba SORENSON ENGINEERING and BIRCH POWER COMPANY, INC.,<br><br>Plaintiffs,<br><br>vs.<br><br>MAC WAGONER and BETTY WAGONER, husband and wife,<br><br>Defendants. | Case No. 2-462<br><br>MEMORANDUM OF AGREEMENT |

COME NOW Ted S. Sorenson, Gayle Sorenson d/b/a Sorenson Engineering, Birch Power Company, Inc. and Birch Creek Ranches, Inc. (Sorensons) and Mac Wagoner and Betty Wagoner (Wagoners) and enter into the following Memorandum of Agreement which agreement shall be made final by execution of settlement and release documents consistent herewith.

1. The season of use for Water Right No. 32-7067 and .8 cfs of the Right No. 32-0090 of the waters of Birch Creek,

ATTACHMENT NO. 1

which shall be transferred to Wagoners, shall hereafter be from April 1st of each year to and including October 15th of the same year; provided, however, that Wagoners may commence diversion of water under such right, if they deem it appropriate, later than April 1st in any given year, and if they do so, the same number of days from April 1st until the day such diversion is first commenced shall be added at the end of the irrigation season for such year so that they may continue diversions under such right for the same number of days after October 15th as elapsed between April 1st and the date subsequent thereto when diversion of water under such right actually began for such year. It is understood that regardless of the date diversions under such right commence, and regardless of whether water is or is not diverted under such right at any time during the above described season of use, such season shall not be extended longer than the actual number of days between April 1st and October 15th.

2. Sorensons will transfer to Wagoners the water rights on Birch Creek identified as Right No. 32-0067 for 3.2 cfs with a priority date of September 10, 1882 and Right No. 32-0090 for a portion of that right of .8 cfs with a priority date of May 10, 1886. Wagoners will transfer to Sorensons Water Right No. 32-0102 for 4.0 cfs with a priority date of May 10, 1889.

3. Sorensons will purchase from Wagoners, Wagoners "high

water" rights consisting of the following:

| NO. | CFS | PRIORITY |
|---|---|---|
| 0073 | .2 | 05/15/1909 |
| 0085 | .2 | 05/10/1910 |
| 0077 | .2 | 05/15/1910 |
| 0086 | .2 | 05/01/1911 |
| 0078 | .2 | 05/15/1911 |
| 0087 | .2 | 05/01/1912 |
| 0079 | .8 | 05/15/1913 |

Sorensons will pay to Wagoners the amount of fifteen thousand dollars ($15,000.00) after the transfer of the above-referenced rights.

4. Wagoners shall withdraw their notice of claim filed in the Snake River Basin Adjudication for 500 miner's inches (10 cfs) of "high water".

5. The 4 cfs or 200 inches of water represents Wagoners water. Sorensons agree to subordinate any additional water developed by them over which they have control as a result of any water saving effort such as lining portions of Birch Creek or any changes to the minimum bypass flow to Wagoners water. Wagoners will make no protest to any water saving activity undertaken by Sorensons.

6. Sorensons agree that in addition to the irrigation water rights listed herein Wagoners will be entitled to divert up to 40 miner's inches (.8 cfs) of the water right which Sorensons will transfer to them which is Right No. 32-0067 for

stockwatering purposes commencing on or after March 1st of any year until such time as irrigation water is diverted and may continue such diversions in the same amount from the time irrigation ceases to no later than December 1st.

7. Wagoners shall not acquire in any way, directly or indirectly, through whatever means any water rights to the waters of Birch Creek held by George Woodie.

8. That Wagoners will withdraw their protest to the transfer of Sorensons now pending before the Idaho Department of Water Resources. The parties agree that this Memorandum of Agreement and the Settlement and Mutual Release that shall be entered into shall be conditioned on the premise that the Idaho Department of Water Resources does not require Wagoners to take land out of production for having sold the "high water" rights.

Ted S. Sorenson

Gayle Sorenson by Ted Sorenson

BIRCH POWER COMPANY, INC.

By: Ted S. Sorenson
Ted S. Sorenson, President

**BIRCH CREEK RANCHES, INC.**

By: _____

Approved as to Form and Content By:

_____
Donald L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO

_____
Mac Wagoner

_____
Betty Wagoner

Approved as to Form and Content By:

_____
Breck H. Barton, Esq.
BARTON & ASSOCIATES

#5491.00
8029h/srr

1.

| Right Number | Priority | Amount (cfs/ac-ft) | Nature of Use | Period of Use |
|---|---|---|---|---|
| 32-0090 ✓ | 05/10/1886 | 0.80000 cfs | | to |
| 32-0093 ✓ | 05/10/1886 | 1.56522 cfs | | to |
| 32-0068 ✓ | 05/10/1887 | 3.20000 cfs | | to |
| 32-0061C ✓ | 05/10/1888 | 0.40000 cfs | | to |
| 32-0069 ✓ | 05/10/1888 | 3.20000 cfs | | to |
| 32-0089 ✓ | 05/10/1888 | 2.50000 cfs | | to |
| 32-0092 ✓ | 05/10/1888 | 2.44565 cfs | | to |
| 32-0091 ✓ | 05/10/1901 | 0.48913 cfs | | to |
| 32-0101 | 06/04/1909 | 2.90000 cfs | | to |

2. Total amount of water being transferred 17.50000 cubic feet per second and/or _____ acre-feet per annum.

ATTACHMENT NO. 2

7. Point(s) of Diversion:

| Lot | ¼ | ¼ | ¼ | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | NW | NE | 24 | 10N | 29E | Clark | |
| | | NE | SE | 24 | 10N | 29E | Clark | |
| | | SE | NE | 24 | 10N | 29E | Clark | |
| | | SW | SW | 29 | 10N | 30E | Clark | |
| | | NW | NW | 32 | 10N | 30E | Clark | |
| | | NE | NE | 14 | 10N | 29E | Clark | |
| | | NE | SW | 11 | 10N | 29E | Clark | |

ATTACHMENT NO. 3

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE ¼ | | | | NW ¼ | | | | SW ¼ | | | | SE ¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 29E | 11 | | | | | | 30 | 35 | 35 | 30 | | | | | 35 | 10 | 40 | 215 |
| | | 12 | | | | | | | | | | | 35 | | | | | | 35 |
| | | 13 | | | | | | 35 | 40 | | | 15 | | | | | | | 90 |
| | | 14 | 35 | | | 20 | | | | | | | | | | | | | 55 |
| | | 24 | | | | | | | | | | | | | | | | 25 | 25 |
| | | 25 | 10 | | | | | | | | | | | | | | | | 10 |
| 10N | ~~29E~~ 30E | 19 | | | | | | | 30 | | | 10 | 15 | 35 | | | 20 | | 110 |
| | | 29 | | | | | | | | | | | 20 | | | | | | 20 |
| | | 30 | 10 | 20 | 30 | 20 | 20 | 35 | | 35 | | | | | | | | | 170 |
| | | 32 | | 5 | 15 | | 35 | 20 | | 40 | 35 | | | | | 40 | 40 | | 230 |

Total acres 960

ATTACHMENT NO. 4

MAIL RETURN TO: KWF
McCLOSKEY, KIDWELL, HAHN & CRAPO
P. O. Box 50130
Idaho Falls, ID 83405

# CORPORATION QUITCLAIM DEED

THIS INDENTURE, made this 10 day of ~~September~~ October, 1990, between WOODIE LAND & LIVESTOCK, INC., a corporation duly organized and existing under the laws of the State of Idaho and having its principal office in Idaho at Howe in Butte County, hereinafter referred to as "FIRST PARTY", and TED S. SORENSON and GAYLE A. SORENSON d/b/a SORENSON ENGINEERING, and BIRCH POWER COMPANY, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "SECOND PARTY", whose principal office in the State of Idaho and whose mailing address is:

2988 Tipperary Lane
Idaho Falls, Idaho 83404

**WITNESSETH:**

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY's right, title and interest now owned or hereafter acquired in and to the following described water right:

ATTACHMENT NO. 5

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| A32-00101 | 2.9 cfs | 06/04/1889 | Birch Creek |

TO HAVE AND TO HOLD said water right unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set its hand and corporate seal by its duly authorized officer the day and year first above written.

**WOODIE LAND & LIVESTOCK, INC.**

By: George Woodie
GEORGE WOODIE, President

(Corporate Seal)

STATE OF IDAHO )
) ss.
County of Butte )

On the 10 day of ~~September~~ October, in the year of 1990, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared GEORGE WOODIE, known or identified to me to be the President of WOODIE LAND & LIVESTOCK, INC., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Notary Public for Idaho
Residing at Howe Idaho
My Commission Expires: 4-6-99

(seal)

#6936.00
192li/srr

43683

FILED FOR RECORD AT 45 MINUTES PAST 9 O'CLOCK A.M. THIS 1ST. DAY OF February 1991 AND RECORDED AS INSTRUM NO. 43683
RECORDS OF CLARK CO
FEE 9.00 FILED MICROFILMED INDEXED
BY Diana L Bromley DEPUTY

PLEASE RETURN TO: AMC
HOLDEN, KIDWELL, HAHN & CRAPO
P. O. Box 50130
Idaho Falls, ID 83405

# QUITCLAIM DEED

THIS INDENTURE, made this 31st day of January, 1991, between TED S. SORENSON and GAYLE A. SORENSON d/b/a SORENSON ENGINEERING, and BIRCH POWER COMPANY, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to collectively as "FIRST PARTY", and BIRCH CREEK RANCHES, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "SECOND PARTY", whose principal office in the State of Idaho and whose mailing address is:

2988 Tipperary Lane
Idaho Falls, Idaho 83404

**WITNESSETH:**

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY'S right, title and interest now owned or hereafter acquired in and to the following described water right:

ATTACHMENT NO. 6

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| A32-00101 | 2.9 cfs | 06/04/1889 | Birch Creek |

TO HAVE AND TO HOLD said water right unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set its hand and corporate seal individually and by its duly authorized officers the day and year first above written.

SORENSON ENGINEERING

By: _____
TED S. SORENSON

By: _____
GAYLE A. SORENSON

BIRCH POWER COMPANY, INC.

By: _____
TED S. SORENSON, President

Attest:

_____
Gayle A. Sorenson, Secretary

(Corporate Seal)

STATE OF IDAHO )
) ss.
County of Bonneville )

On the 31st day of January, in the year of 1991, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared TED S. SORENSON and GAYLE A. SORENSON d/b/a SORENSON ENGINEERING, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 1-14-92

(seal)

STATE OF IDAHO )
) ss.
County of Bonneville )

On the 31st day of January, in the year of 1991, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared TED S. SORENSON and GAYLE A. SORENSON, known or identified to me to be the President and Secretary of BIRCH POWER COMPANY, INC., the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 1-14-92

(seal)

#6936.00
5922i/srs

43684

FILED FOR RECORD AT 46 MINUTES PAST 9 O'CLOCK A.M. THIS 1st DAY OF February 1991 AND RECORDED AS INSTRUMENT NO. 43864
RECORDS OF CLARK COUNTY, IDAHO
FEE 9.00 FILED ..... RECORDED ..... PAGE .....
BY Lynn L. Bromley DEPUTY

3 - QUITCLAIM DEED

FROM: KEITH C. WILSON

TO: TRANSFER APPLICATIONS

SUBJECT: ANALYSIS OF TRANSFERS

A. THE FOLLOWING RIGHTS WERE AFFECTED BY TRANSFER # 2165.

| RIGHT NO. | AMOUNT | NOTE | RIGHT NO. | AMOUNT | NOTE |
|---|---|---|---|---|---|
| 32-0061C | 0.40 CFS | | 32-0089 | 2.50 | |
| 32-0067 | 3.20 | | 32-0090 | 1.60 | 2 |
| 32-0068 | 3.20 | | 32-0091 | 0.50 | 1 |
| 32-0069 | 3.20 | | 32-0092 | 2.50 | 1 |
| | | | 32-0093 | 1.60 | 1 |

**NOTES:**

1. IN THE COMBINATION OF 32-0091/0092/0093 0.10 CFS WAS CONSIDERED AS BEING APPURTENANT TO BLUE DOME PROPERTY OWNED BY MRS. CECIL CARSON, AND THESE RIGHTS WERE NOT AFFECTED BY TRANSFER 2165, NOR IS IT BEING AFFECTED BY THIS APPLICATION FOR TRANSFER. IF 0.1 CFS IS DEDUCTED PROPORTIONATELY FROM THESE THREE RIGHTS THE FOLLOWING WOULD BE THE REMAINING AMOUNTS. THESE RIGHTS SHOULD HAVE BEEN CODED AS SHOWN BELOW:

32-0091 0.50 CFS -- 32-0091A 0.01087 CFS
_ 32-0091B 0.48913 CFS

32-0092 2.50 CFS -- 32-0092A 0.05435
_ 32-0092B 2.44565 CFS

32-0093 1.60 CFS -- 32-0093A 0.03478 CFS
_ 32-0093B 1.56522 CFS

2. TRANSFER 2165 MADE WATER RIGHT 32-0090 APPURTENANT TO 960 ACRES. THE APPLICATION FOR TRANSFER FOR 17.5 CFS PROPOSES TO SPLIT THIS RIGHT IN HALF KEEPING 0.80 CFS APPURTENANT TO 960 ACRES, BIRCH CREEK RANCHES LAND. THE APPLICATION FOR TRANSFER FOR 4.0 CFS TRANSFERS THE REMAINING 0.80 CFS TO 339 ACRES, MAC WAGONER'S LAND, THUS REDUCING THE ACREAGE OF THIS PORTION OF THE RIGHT FROM 480 ACRES TO 339 ACRES. WHEN VIEWED TOGETHER THESE TWO APPLICATIONS FOR TRANSFER WOULD BE AN EXPANSION FROM 960 ACRES TO 1299 ACRES.

**********

B. 32-00101: DECREE LISTS "**160 acres; provided**, however, that ... shall only be entitled to the **use of one (1) Miners' inch per acre** ... for irrigation of so much of said lands as are not in actual cultivation, until the whole thereof shall be placed in cultivation; and if the said **defendant shall fail to bring** said lands **under cultivation** and make beneficial use of the waters thereon **within five (5) years** from the date hereof, he shall be **deemed to have abandoned** such part of said **waters as have not been so used.**" BASED ON THIS STATEMENT IT APPEARS THAT 32-00101 FOR 64.0 ACRES MAY BE FOR ONLY 1.28 CFS (0.02 CFS/ACRE). THE AMOUNT OF THE RIGHT DEPENDS ON THE NUMBER OF ACRES DEVELOPED BY SEPT 06, 1927 (09/06/1922 PLUS 5 YEARS). APPLICANT MUST SUPPLY DOCUMENTATION AS TO THE EXTENT OF DEVELOPMENT BY SEPT 06, 1927. THEN THE RIGHT SHOULD BE REVIEWED AND CHANGED AS PER THE INFORMATION.

Keith C Wilson

KEITH C. WILSON

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT



Water Right Number - 32-00091 Prefix Translation: WATER RIGHT Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 -<br>2 -<br>3 -<br>City- TERRETON State- ID Zip- 83450<br>Phone - |
| *** O - ORIGINAL OWNER *** | | |
| KAUFMAN | EDWARD | 1 -<br>2 -<br>3 -<br>City- State- Zip-<br>Phone - |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/01/1901 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| PASS CREEK Birch Creek | BIRCH CREEK |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE SW | | (33) | CLARK | |
| 10N | 29E | 14 | NE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NW NE | | (33) | CLARK | |
| 10N | 29E | 24 | SE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NE SE | | (33) | CLARK | |
| 10N | 30E | 29 | SW SW | | (33) | CLARK | |
| 10N | 30E | 32 | NW NW | | (33) | CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 0.500 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 0.500<br>0.48913 | | | 0.4893 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

Water right number - 32-00091 Prefix Translation: WATER RIGHT

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 13 | NW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | 25.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

Total Acres: 960.0

Diversion Means -

Non-Irrigation Use -

Other Rights for Same Use - 32-0067, 0068, 0061, 0090, 0069, 0089, 0092, & 0093.

Remarks

AS PER TRANS # 2165.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff
AGNES B. RENO, ET. AL.

Decree Defendant
J. R. RICHARDS, ET. AL.

Decree Date
09/06/1922

Water right number - 32-00091 Prefix Translation: WATER RIGHT

-Comments-

No Comments Found

Audit Fields - 07/15/85 05/22/88 CONVERT 10/09/90 MILLER

Water Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Proof Due Date | - 00/00/0000 | Field Exam Made | - 00/00/0000 | Field Exam Fee | - |
| Approved/Denied | - 00/00/0000 | Protested Date | - 10/07/1977 | Swan Falls | - |
| Proof Made Date | - 00/00/0000 | Hearing Date | - 00/00/0000 | Temporary Right | - P |
| Start Work Date | - 00/00/0000 | Verified Date | - 07/15/1985 | DLE/Carey Act | - |
| Order Show Cause | - 00/00/0000 | Receipt Number | - | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Appl Received | - 00/00/0000 | Transfer/Amended | - T |
| Decree Date | - 09/06/1922 | Microfilm Roll No | - | Presumption Flag | - |

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT



Water Right Number - 32-00092 Prefix Translation: WATER RIGHT Old (D) Number -

*** C - CURRENT OWNER ***
SIMMONS WILLIAM T.
1 -
2 -
3 -
City- TERRETON State- ID Zip- 83450
Phone -

*** O - ORIGINAL OWNER ***
KAUFMAN EDWARD
1 -
2 -
3 -
City- State- Zip-
Phone -

Priority Date: 05/10/1888
Region: 15 EASTERN
Stage: D - DECREED
Status:
Source: BIRCH CREEK
Tributary: SINKS

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE SW | | | (33) CLARK | |
| 10N | 29E | 14 | NE NE | | | (33) CLARK | |
| 10N | 29E | 24 | NW NE | | | (33) CLARK | |
| 10N | 29E | 24 | SE NE | | | (33) CLARK | |
| 10N | 29E | 24 | NE SE | | | (33) CLARK | |
| 10N | 30E | 29 | SW SW | | | (33) CLARK | |
| 10N | 30E | 32 | NW NW | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 2.500 | 2.44565 cfs |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 2.500 | 2.44565 cfs | | | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

Water right number - 32-00092 Prefix Translation: WATER RIGHT

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 13 | NW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | 25.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

Total Acres: 960.0

Diversion Means -

Non-Irrigation Use -

Other Rights for Same Use - 32-0067, 0068, 0061, 0091, 0090, 0069, 0089, & 0093.

Remarks

AS PER TRANS # 2165.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff
AGNES B. RENO, ET. AL

Decree Defendant
J. R. RICHARDS, ET. AL.

Decree Date
09/06/1922

Water right number - 32-00092 Prefix Translation: WATER RIGHT

-Comments-

No Comments Found

Audit Fields - 06/24/85 05/22/88 CONVERT 10/09/90 MILLER

Water Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Proof Due Date | - 00/00/0000 | Field Exam Made | - 00/00/0000 | Field Exam Fee | - |
| Approved/Denied | - 00/00/0000 | Protested Date | - 10/07/1977 | Swan Falls | - |
| Proof Made Date | - 00/00/0000 | Hearing Date | - 00/00/0000 | Temporary Right | - P |
| Start Work Date | - 00/00/0000 | Verified Date | - 06/24/1985 | DLE/Carey Act | - |
| Order Show Cause | - 00/00/0000 | Receipt Number | - | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Appl Received | - 00/00/0000 | Transfer/Amended | - T |
| Decree Date | - 09/06/1922 | Microfilm Roll No | - | Presumption Flag | - |

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT



Water Right Number - 32-00093 Prefix Translation: WATER RIGHT Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 -<br>2 -<br>3 -<br>City- TERRETON State- ID Zip- 83450<br>Phone - |
| *** O - ORIGINAL OWNER *** | | |
| KAUFMAN | EDWARD | 1 -<br>2 -<br>3 -<br>City- State- Zip-<br>Phone - |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1886 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE SW | | (33) | CLARK | |
| 10N | 29E | 14 | NE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NW NE | | (33) | CLARK | |
| 10N | 29E | 24 | SE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NE SE | | (33) | CLARK | |
| 10N | 30E | 29 | SW SW | | (33) | CLARK | |
| 10N | 30E | 32 | NW NW | | (33) | CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 1.600<br>1.5622 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 1.600<br>1.5622 | | | | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

Water right number - 32-00093 Prefix Translation: WATER RIGHT

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 13 | NW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | 25.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

Total Acres: 960.0

Diversion Means -

Non-Irrigation Use -

Other Rights for Same Use - 32-0067, 0068, 0061, 0091, 0090, 0069, 0092, &0089.

Remarks

AS PER TRANS #2165.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff
AGNES B. RENO, ET. AL.

Decree Defendant
J. R. RICHARDS, ET. AL.

Decree Date
09/06/1922

Water right number - 32-00093 Prefix Translation: WATER RIGHT

-Comments-

No Comments Found

Audit Fields - 07/15/85 05/22/88 CONVERT 10/09/90 MILLER

Water Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Proof Due Date | - 00/00/0000 | Field Exam Made | - 00/00/0000 | Field Exam Fee | - |
| Approved/Denied | - 00/00/0000 | Protested Date | - 10/07/1977 | Swan Falls | - |
| Proof Made Date | - 00/00/0000 | Hearing Date | - 00/00/0000 | Temporary Right | - P |
| Start Work Date | - 00/00/0000 | Verified Date | - 07/15/1985 | DLE/Carey Act | - |
| Order Show Cause | - 00/00/0000 | Receipt Number | - | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Appl Received | - 00/00/0000 | Transfer/Amended | - T |
| Decree Date | - 09/06/1922 | Microfilm Roll No | - | Presumption Flag | - |

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT



Water Right Number - 32-00101 Prefix Translation: WATER RIGHT Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** WEIMER | THOMAS J. | 1 -<br>2 -<br>3 -<br>City- State- Zip-<br>Phone - |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 06/04/1909 | 15 EASTERN | D - DECREED | |

Source: BIRCH CREEK

Tributary: SINKS

Point of Diversion — Stream Index (Blank if no Index Code)

| Twn | Rng | Sec | Tract | Lot | RFlg | County |
|---|---|---|---|---|---|---|

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | | | 2.900 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 2.900 | | | | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 2 | SW SW | | | 01 | IRRIGATION | 33 CLARK |
| 10N | 29E | 3 | SE NE | | | 01 | IRRIGATION | 33 CLARK |
| 10N | 29E | 3 | NE SE | | | 01 | IRRIGATION | 33 CLARK |
| 10N | 29E | 3 | SE SE | | | 01 | IRRIGATION | 33 CLARK |

Diversion Means -

Non-Irrigation Use -

Other Rights for Same Use - 32-0072.

Remarks

P/D INCOMPLETE - ACRES LISTED 160.
RIGHT IS LIMITED TO 1 MINER'S INCH PER ACRE.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

| Decree Plaintiff | Decree Defendant | Decree Date |
|---|---|---|
| AGNES B. RENO, ET. AL. | J. R. RICHARDS, ET. AL. | 09/06/1922 |

Water right number - 32-00101 Prefix Translation: WATER RIGHT

-Comments-

No Comments Found

Audit Fields - 06/24/85 05/22/88 CONVERT

Water Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Proof Due Date | - 00/00/0000 | Field Exam Made | - 00/00/0000 | Field Exam Fee | - |
| Approved/Denied | - 00/00/0000 | Protested Date | - 00/00/0000 | Swan Falls | - |
| Proof Made Date | - 00/00/0000 | Hearing Date | - 00/00/0000 | Temporary Right | - P |
| Start Work Date | - 00/00/0000 | Verified Date | - 06/24/1985 | DLE/Carey Act | - |
| Order Show Cause | - 00/00/0000 | Receipt Number | - | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Appl Received | - 00/00/0000 | Transfer/Amended | - |
| Decree Date | - 09/06/1922 | Microfilm Roll No | - | Presumption Flag | - |

The East half of the
west Quarter of the North[illegible]st Quarter of Section Twenty-t[illegible] (22), and the South-West Quarter of the South-west Quarter of Section Fifteen (15), in Township Eleven (11), North of Range Thirty (30) East of the Boise Meridian, in Lemhi County, State of Idaho, containing one hundred and sixty acres;

32 0072 That Thomas J. Weimer have the exclusive use, at all times, of the waters of those certain springs situated in the South-east Quarter of the North-east Quarter of Section Three (3), Township Ten (10) North of Range Twenty-nine (29), East of the Boise Meridian; and also have, at all times; the use of two and nine-tenths (2.9) cubic feet per second of time of the waters of said Birch Creek; his right to the use of the waters of said Birch Creek to date from the 4th day of June, 1909; all of the said waters of the said Springs and of said Birch Creek to be used upon and become appurtenant to the following described lands: 32-01 9/

The South-east Quarter of the North-east Quarter, the East Half of the South-east Quarter of Section Three (3), and the South-west Quarter of the South-west Quarter of Section Two (2), in Township Ten (10) North of Range Twenty-nine (29) East of the Boise Meridian, in Clark County, State of Idaho, containing one hundred and sixty acres; provided, however, that the said Thomas J. Weimer shall only be entitled to the use of one (1) Miners' inch per acre of the said waters for the irrigation of so much of said lands as are not in actual cultivation, until the whole thereof shall be placed in cultivation; and if the said defendant shall fail to bring said lands under cultivation and make beneficial use of the waters thereon within five (5) years from the date hereof, he shall be deemed to have abandoned such part of said waters as have not been so used.

32 0073 That the said Defendant, George Goddard, and his successors in interest, have, at all times, the use of two-tenths of a cubic foot per second of time (ten miners' inches) of the waters of said Birch Creek, his right to the use of the same to date from the 15th day of May, 1909; that said George Goddard, and his successors in interest, also, have, at all times, the use of an additional two-tenths of a cubic foot per second of time (ten Miners' inches) of the waters of Birch Creek, his right to the use of the same to date from the 15th day of May, 1910; and that the said George Goddard, and his successors in interest, have, at all times, the use of an additional two-tenths of a cubic foot per second of time (ten miners' 32 0077 32 0078

[illegible] of said Birch Creek, his right to the use of same to-date

FROM: KEITH C. WILSON - EASTERN 05 APRIL 1991

TO: TRANSFER FILE - 32-0067/0090/0102/0073/0085/0077/0086/0078/
32-0087/0079/0061C/0101/0068/0069/0089/0090/
32-0091/0092/0093

SUBJECT: DIVERSION RATE IN EXCESS OF 0.02 CFS/ACRE

MAC WAGONER'S TRANSFER PROPOSES TO TRANSFER 6.0 CFS TO 960 ACRES, AND BIRCH CREEK RANCHES, INC. PROPOSES TO TRANSFER 17.5 CFS TO THE SAME 960 ACRES.

ANALYSIS: 6.0 CFS + 17.5 CFS = 23.5 CFS/960 ACRES

23.5 CFS/960 ACRES = 0.024479 CFS/ACRE

0.024479 CFS/ACRE = 1.223 MINERS INCHES PER ACRE

1.223 MINERS INCHES > 1 MINERS INCH

THEREFORE: THIS IS EXCESSIVE FLOW. APPLICANT MUST SUBMIT EVIDENCE FOR > 0.02 CFS/AC FLOW

Keith C Wilson

KEITH C. WILSON

FROM: KEITH C. WILSON 4 APRIL 1991

TO: TRANSFER FILE 17.5 CFS ATTACHMENT 4
TRANSFER FILE 4.0 CFS ATTACHMENT 3

SUBJECT: PROOF OF OWNERSHIP

FROM BONNIE BURNS, TREASURER FOR CLARK COUNTY, THE OWNERSHIP OF PARCELS IDENTIFIED ONLY BY TAX NUMBERS IS AS FOLLOWS:

SEC 19, T10N, R30E
TAX 1 - WILLIAM SIMMONS
TAX 2 - BIRCH CREEK RANCHES INC.

SEC 30, T10N, R30E
TAX 2 - WILLIAM SIMMONS
TAX 3 - BIRCH CREEK RANCHES INC.

TAX NOTICES ADDRESSED AS SIMMONS, WILLIAM T. & THEOLA C/O BIRCH CREEK RANCHES INC. INDICATES THAT MR. SIMMONS STILL OWNS THE PLACE OF USE AND BIRCH CREEK RANCHES IS PURCHASING THE PROPERTY ON CONTRACT.

THE LEGAL DESCRIPTIONS IDENTIFIED AS TAX 1 SECTION 19, AND TAX 2 SECTION 30, T10N, R30E, NEED TO BE INCLUDED TO COMPLETE PROOF OF OWNERSHIP OF THE LAND LIST IDENTIFIED IN ATTACHMENT # 3 AND 4. OWNERSHIP OF TAX 1 SECTION 19, AND TAX 2 SECTION 30, T10N, R30E, IS STILL IN MR. SIMMONS NAME; **THEREFORE, IT WOULD APPEAR THAT MR. SIMMONS SHOULD HAVE SOME SAY INTO WHAT IS HAPPENING TO THESE WATER RIGHTS.**

Keith C Wilson

KEITH C. WILSON
SENIOR RESOURCE AGENT

RECEIVED
CA
NAR
FEB 28 1991
Department of Water Resources
Eastern District Office

T10N R30E Section 19

* (Tax 1)..owner.....Simmons

The SE4SW4 lying east of Highway 28 right-of-way; Lot 4 lying east of Highway 28 right-of-way; and that part of Lot 3 lying east of Highway 28 right-of-way and south of a line running east from the intersection of the higway right-of-way and the existing fence line (known as the Dance Hall field fence). #42322

** (Tax 2)...owner.....Birch Creek

The SE4SW4 lying west of Highway 28 right-of-way; Lot 4 lying west of Highway 28 right-of-way; that part of Lot 3 lying west of Highway 28 right-of-way and north of a line running east from the intersection of the highway right-of-way and the existing fence line (known as the Dance Hall field fence). Compiled by Sheldon Bluestein 4/89.

T10N R30E Section 30

* (Tax 2)...owner..... Simmons

The north half of Section 30 lying east of the Highway 28 right-of-way. #42322

** (Tax 3)...owner..... Birch Creek

The east half of the NW4 lying west of the Highway 28 right-of-way. Compiled by Sheldon Bluestein 4/89.

Simmons TO Ted Sorensen

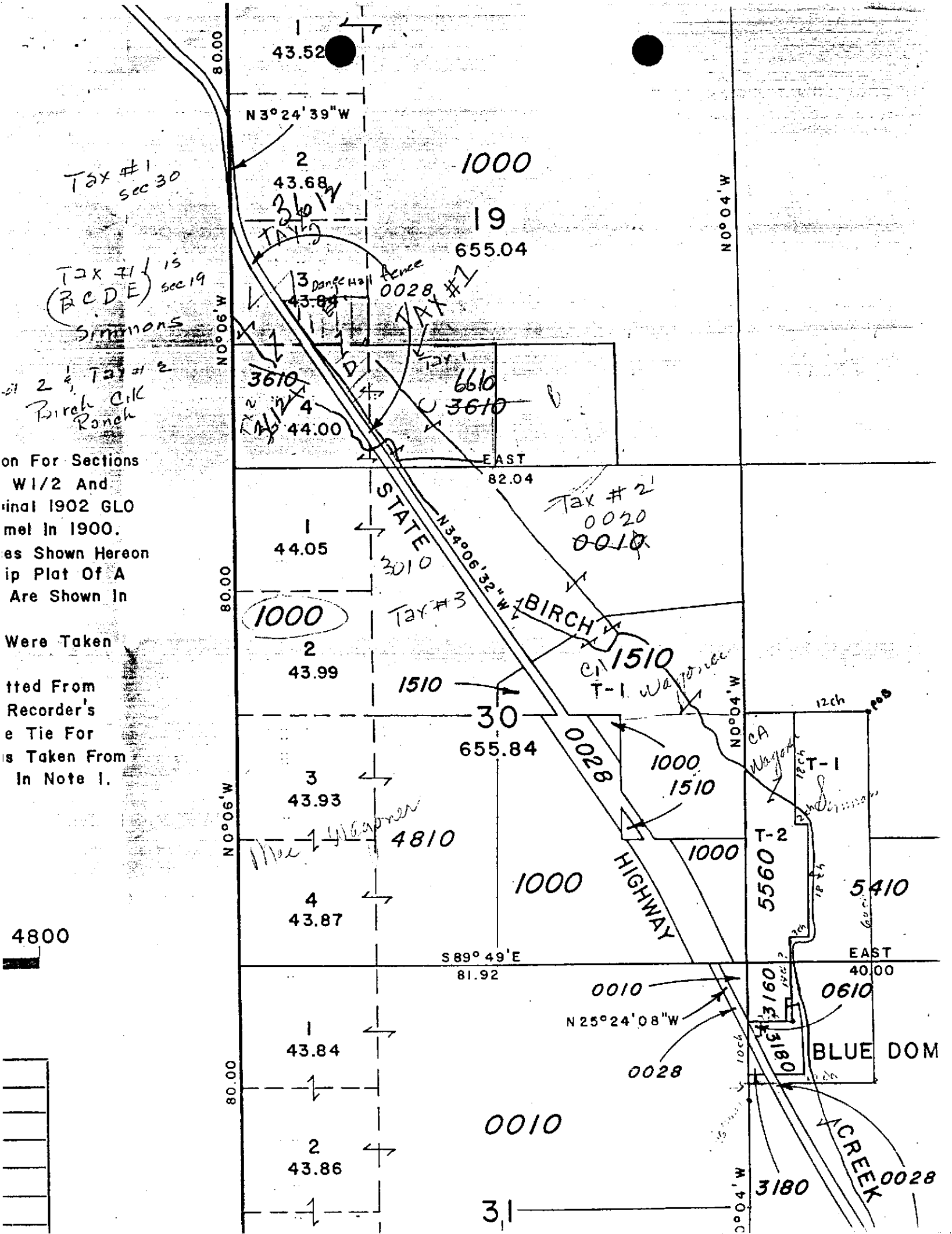
4-1-1991

* Ownership: Simmons, William T & Theola

** Ownership: Birch Creek Ranches Inc.

confirmed by tele con w/Clark Co. Treasurer Bonnie Burns.

Keith C Wilson


Tax #1 sec 30
Tax #1 is (B C D E) sec 19
Simmons
Tax #2
Birch Crk Ranch
on For Sections
W1/2 And
inal 1902 GLO
mel In 1900.
es Shown Hereon
ip Plat Of A
Are Shown In
Were Taken
tted From
Recorder's
e Tie For
s Taken From
In Note 1.
4800
1
43.52
N3°24'39"W
2
43.68
3610
Tax #1
1000
19
655.04
3
43.88
Dance Hall
Fence
0028
Tax #1
3610
4
44.00
Tax 1
660
3610
EAST
82.04
80.00
N0°06'W
N0°04'W
STATE
N34°06'32"W
BIRCH
Tax #2
0020
0010
1
44.05
3010
Tax #3
1000
2
43.99
1510
1510
CA
T-1
30
655.84
1000
1510
0028
3
43.93
4810
1000
T-2
5560
5410
HIGHWAY
1000
4
43.87
S89°49'E
81.92
EAST
40.00
0010
0610
N25°24'08"W
3160
3180
BLUE DOM
0028
1
43.84
0010
2
43.86
3180
0028
CREEK
31

# ASSESSOR'S LIST OF TAX NUMBERS

## FREMONT COUNTY, IDAHO

Sec 29 & 32 10-39 Tax #1

INTERS AND BINDERS, POCATELLO 3033

Description of Each Tract of Land Designated by Tax Number

Sec 32 Base

Beginning at the Northeast corner of the Northwest quarter of the Southwest quarter Section Twenty-nine in Tsp. Ten North Range Thirty East Boise Meridian thence West Twelve (792') Chains; Thence, South Eighteen (1188') chains; Thence East two (132') chains; Thence South eighteen (1188') chains; Thence west Three (198') chains; thence South Fourteen (924') chains; Thence west seven (462') chains; thence South ten (660') chains to the Southwest corner of the Northwest quarter of the Northwest quarter Section thirty two; thence East 20 (1320) chains; thence North Sixty (3960') chains to place of beginning.

Wm. T. Simmons

29 Tax 1

32 Tax 1, 3, 4

FROM: KEITH C. WILSON 27 MARCH 1991

TO: TRANSFER FILE 17.5 CFS & 4.0 CFS
32-0067/0090 FOR 4.0 CFS
32-0061C/0068/0069/0089/0090/0091/0092/0093/0101 FOR 17.5 CFS

SUBJECT: PROOF OF OWNERSHIP

PROOF OF OWNERSHIP HAS BEEN ESTABLISHED FOR THE FOLLOWING SECTIONS:

SECTIONS 11, 12, 13, 14, 24, 25, T10N, R29E.

THE FOLLOWING P/U NEEDS PROOF OF OWNERSHIP:

T10N, R30E:
SEC 19 - W1/2SW, SESW, SWSE
SEC 29 - SWSW
SEC 30 - NE1/4, E1/2NW
SEC 32 - NWNW

SOME OF THE PROOF MAY BE FOUND AFTER THE FOLLOWING LEGAL DESCRIPTIONS HAVE BEEN DEFINED:

T10N, R30E:
SEC 19 - TAX 2
SEC 29 - TAX 1
SEC 30 - TAX 3 & HWY
SEC 32 - TAX 1,3,4

I HAVE REQUESTED THIS INFORMATION FROM THE CLARK COUNTY TREASURER.

Keith C Wilson

KEITH C. WILSON
SENIOR RESOURCE AGENT

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
MICHAEL D. CRAPO
GAYLE A. SORENSON
DONALD L. HARRIS
RANDALL B. REED
MARIE T. FEELEY
JOHN G. SIMMONS
ROBERT M. FOLLETT

WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

RECEIVED
MAR 19 1991
Department of Water Resources
Eastern District Office

March 19, 1991

Keith C. Wilson, Senior Resource Agent
IDAHO DEPARTMENT OF WATER RESOURCES
150 Shoup Avenue, #15
Idaho Falls, Idaho 83402

RE: Birch Creek Ranches, Inc.
Amended Applications for Transfer

Dear Mr. Wilson:

We have just received and are enclosing copies of the relevant tax notices in the above referenced matter.

If you have additional questions or comments, please contact me.

Yours very truly,

John G. Simmons for
Kent W. Foster

#6936.00/srs

Enclosure

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

CORRECTED NOTICE

PARCEL NO. RP 10N30E193612 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE | |
|---|---|---|---|
| 1 IRRGTD AG | 53.000 AC | 11,130 | 1990 |
| 5 DRY GRAZING | 70.500 AC | 1,974 | TAXPAYERS |
| | | | VALUATION |
| | 123.500 | 13,104* | ASSESSMENT NOTICE |

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 22, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER RP10N30E193610A

SEC 19 TWP 10 RGE 30
LOT 2, TAX 2 LESS 7 AC FOR RD

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

Lot 2 - SWSW

Tax 2 -

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

CORRECTED NOTICE

PARCEL NO. RP 10N30E320610 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE | |
|---|---|---|---|
| 1 IRRGTD AG | 144.800 AC | 27,367 | 1990 |
| 5 DRY GRAZING | 296.270 AC | 8,162 | TAXPAYERS |
| 19 WASTE | 12.000 AC | | VALUATION |
| | 453.070 | 35,529* | ASSESSMENT NOTICE |

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 22, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER

SEC 32 TWP 10 RGE 30
W2E2, SESE, NENW, TAX 1,3,4
S2NW, N2SW, SESW LESS 12.3 AC.
RD

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

Tax 1 -

3 -

4 -

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N29E113010 A

| CATEGORY DESCRIPTION | TAX CODE 3-00 LOTS / ACRES | MARKET VALUE | |
|---|---|---|---|
| 1 IRRGTD AG | 144.600 AC | 41,934 | 1990 |
| 5 DRY GRAZING | 119.400 AC | 3,343 | TAXPAYERS |
| 19 WASTE | 16.000 AC | | VALUATION |
| | 280.000 | 45,277* | ASSESSMENT NOTICE |

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 11 TWP 10 RGE 29
SENW, W2NW, NESW, W2SE, SESE

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N29E126010 A

| CATEGORY DESCRIPTION | TAX CODE 3-00 LOTS / ACRES | MARKET VALUE | |
|---|---|---|---|
| 1 IRRGTD AG | 34.200 AC | 7,934 | 1990 |
| 5 DRY GRAZING | 5.800 AC | 99 | TAXPAYERS |
| | 40.000 | 8,033* | VALUATION |
| | | | ASSESSMENT NOTICE |

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 12 TWP 10 RGE 29
SWSW

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N29E133010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | | MARKET VALUE |
|---|---|---|---|
| 1 IRRGTD AG | 75.200 | AC | 17,446 |
| 5 DRY GRAZING | 185.700 | AC | 2,628 |
| 19 WASTE | 19.100 | AC | |
| | 280.000 | | 20,074 |

1990
TAXPAYERS
VALUATION
ASSESSMENT NOTICE

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE
JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 13 TWP 10 RGE 29
W2NW, N2SW, SESW, S2SE

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N29E140010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | | MARKET VALUE |
|---|---|---|---|
| 1 IRRGTD AG | 58.100 | AC | 13,479 |
| 5 DRY GRAZING | 99.500 | AC | 932 |
| 19 WASTE | 2.400 | AC | |
| | 160.000 | | 14,411 |

1990
TAXPAYERS
VALUATION
ASSESSMENT NOTICE

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE
JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 14 TWP 10 RGE 29
N2NE, SENE, NESE

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N29E240010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE |
|---|---|---|
| 1 IRRGTD AG | 23.500 AC | 6,815 |
| 5 DRY GRAZING | 160.200 AC | 1,582 |
| 19 WASTE | 11.400 AC | |
| | 195.100 | 8,397* |

1990
TAXPAYERS
VALUATION
ASSESSMENT NOTICE

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 24 TWP 10 RGE 29
E2NE, LESS TAX 1,2,3 & PARCEL
1830 KNOWN AS TAX 1A, N2SE,
SESE

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N29E250010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE |
|---|---|---|
| 1 IRRGTD AG | 8.000 AC | 2,320 |
| 5 DRY GRAZING | 32.000 AC | 256 |
| | 40.000 | 2,576* |

1990
TAXPAYERS
VALUATION
ASSESSMENT NOTICE

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 25 TWP 10 RGE 29
NENE

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N30E295410 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE | |
|---|---|---|---|
| 1 IRRGTD AG | 12.600 AC | 2,381 | 1990 |
| 5 DRY GRAZING | 71.200 AC | 570 | TAXPAYERS |
| 10 RURAL HOMESITE | 1.000 AC | 2,500 | |
| 31 RURAL RES BLDG | | 19,368 | VALUATION |
| 32 RURAL IMP ON AG | | 24,651 | ASSESSMENT NOTICE |
| | 84.800 | 49,470* | Taxes are based on the valuation listed on this statement |

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 29 TWP 10 RGE 30
TAX 1, SESW

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

Tax 1-

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N30E303010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE | |
|---|---|---|---|
| 1 IRRGTD AG | 49.500 AC | 10,395 | 1990 |
| 5 DRY GRAZING | 52.880 AC | 1,481 | TAXPAYERS |
| 19 WASTE | 3.600 AC | | VALUATION |
| | 105.980 | 11,876* | ASSESSMENT NOTICE |

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER RP10N30E300010A
SEC 30 TWP 10 RGE 30
LOT 1, TAX 3 & HWY

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

Lot 1 NWNW

Tax 3

FROM: KEITH C. WILSON 25 MARCH 1991

TO: FILE BIRCH CK TRANSFER FOR 17.5 CFS

SUBJECT: EXPANSIONS

TRANSFER 2165 MADE WATER RIGHT 32-0090 APPURTENANT TO 960 ACRES. THE APPLICATION FOR TRANSFER FOR 17.5 CFS PROPOSES TO SPLIT THIS RIGHT IN HALF KEEPING 0.80 CFS APPURTENANT TO 960 ACRES, BIRCH CREEK RANCHES LAND. THE APPLICATION FOR TRANSFER FOR 4.0 CFS TRANSFERS THE REMAINING 0.80 CFS TO 339 ACRES, MAC WAGONER'S LAND, THUS REDUCING THE ACREAGE OF THIS PORTION OF THE RIGHT FROM 480 ACRES TO 339 ACRES. WHEN VIEWED TOGETHER THESE TWO APPLICATIONS FOR TRANSFER WOULD BE AN EXPANSION FROM 960 ACRES TO 1299 ACRES.

32-00090 / T2165 ----------> 0.80 CFS FOR 339 ACRES
(1.6 CFS) \
(960 AC) \--------> 0.80 CFS FOR 960 ACRES

1299 ACRES

Keith C Wilson
KEITH C. WILSON

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT



Water Right Number - 32-00090 Prefix Translation: WATER RIGHT Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** SIMMONS | WILLIAM T. | 1 - 2 - 3 - City- TERRETON State- ID Zip- 83450 Phone - |
| *** O - ORIGINAL OWNER *** WATTS | C. B. | 1 - 2 - 3 - City- State- Zip- Phone - |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1886 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE SW | | (33) | CLARK | |
| 10N | 29E | 14 | NE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NW NE | | (33) | CLARK | |
| 10N | 29E | 24 | NE SE | | (33) | CLARK | |
| 10N | 30E | 24 | SE NE | | (33) | CLARK | |
| 10N | 30E | 29 | SW SW | | (33) | CLARK | |
| 10N | 30E | 32 | NW NW | | (33) | CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 1.600 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 1.600 | | | | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

Water right number - 32-00090 Prefix Translation: WATER RIGHT

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 13 | NW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | 25.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

Total Acres: 960.0

Diversion Means -

Non-Irrigation Use -

Other Rights for Same Use - 32-0093,, 0067, 0068, 0061, 0091, 0069, 0092, 0089.

Remarks

AS PER TRANS. #2165.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff
AGNES B. RENO, ET. AL.

Decree Defendant
J. R. RICHARDS, ET. AL.

Decree Date
09/06/1922

Water right number - 32-00090 Prefix Translation: WATER RIGHT

-Comments-

No Comments Found

Audit Fields - 02/22/88 05/22/88 CONVERT 10/09/90 MILLER

Water Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Proof Due Date | - 00/00/0000 | Field Exam Made | - 00/00/0000 | Field Exam Fee | - |
| Approved/Denied | - 00/00/0000 | Protested Date | - 10/07/1977 | Swan Falls | - |
| Proof Made Date | - 00/00/0000 | Hearing Date | - 00/00/0000 | Temporary Right | - P |
| Start Work Date | - 00/00/0000 | Verified Date | - 07/15/1985 | DLE/Carey Act | - |
| Order Show Cause | - 00/00/0000 | Receipt Number | - | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Appl Received | - 00/00/0000 | Transfer/Amended | - T |
| Decree Date | - 09/06/1922 | Microfilm Roll No | - | Presumption Flag | - |

FROM: KEITH C. WILSON 22 MARCH 1991

TO: TRANSFER FILE RIGHTS 32-0067/0090/0093/0068/0089/0069/
-0092/0061C/0091

SUBJECT: MAP

NO MAP WAS FOUND IN A REVIEW OF THIS FILE. HOWEVER, IN THE ENCLOSED COPY OF A LETTER FROM KENT FOSTER (dtd 13 MAR 1991) THE PLACE OF USE IS CONFIRMED TO BE CORRECT AS SHOWN IN PART 1, ITEM B.5. SINCE THIS IS A STATEMENT FROM THE LAWYER FOR BIRCH CREEK RANCHES, I HAVE COMPLETED A COPY OF THE MAP USING THE LEGAL DESCRIPTION FROM PART 1, ITEM B.5.

Keith C Wilson

KEITH C. WILSON
SENIOR RESOURCE AGENT

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
MICHAEL D. CRAPO
GAYLE A. SORENSON
DONALD L. HARRIS
RANDALL B. REED
MARIE T. FEELEY
JOHN G. SIMMONS
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

MAR 14 1991

March 13, 1991

Keith C. Wilson, Senior Resource Agent
IDAHO DEPARTMENT OF WATER RESOURCES
150 Shoup Avenue, #15
Idaho Falls, Idaho 83402

RE: Birch Creek Ranches, Inc.
Amended Applications for Transfer

Dear Mr. Wilson:

In response to your letter of March 7th which we received on the 11th:

1. With respect to the portion of Birch Creek Ranches' Amended Application for Transfer of 17.5 cfs to D & D lands, the correct place of use is shown under Part 1, Item # B.5. The map we referred to was not the map submitted by Mac and Betty Wagoner, but rather the map filed with the original Birch Creek Ranches application in April of 1989. This water is leased to D & D Enterprises and we relied upon the legal description of 960 acres supplied by Mr. Jim DeMordaunt. We do not know for certain who prepared the map for the Wagoner application; we thought it was Ron Carlson.

2. With respect to the portion of Birch Creek Ranches' Amended Application for Transfer for 4.0 cfs to Wagoner lands, we copied Part 1, Item # B.5 and the map from the copy of Wagoners' application which was furnished to us by Mr. Breck Barton, and we assumed that the correct description was contained in Part 1, Item # B.5. We neither prepared nor reviewed the map submitted by Mr. Wagoner; again, we thought it was all prepared by Ron Carlson, but really do not know for certain.

As between the map and the 960 acres of D & D land described in Part 1, Item # B.5, we think the latter is correct. As between the map and the 339 acres of Wagoner land shown in Part 1, Item # B.5, we think you will need to consult with Wagoners or their attorney to determine which is correct.

We have requested copies of the tax notices for the 960 acres of Birch Creek Ranches' lands and will forward them when they arrive. Because these are amendments of the application filed in 1989, and because notice of that application was already published, we thought this item was no longer necessary.

Yours very truly,

Kent W. Foster

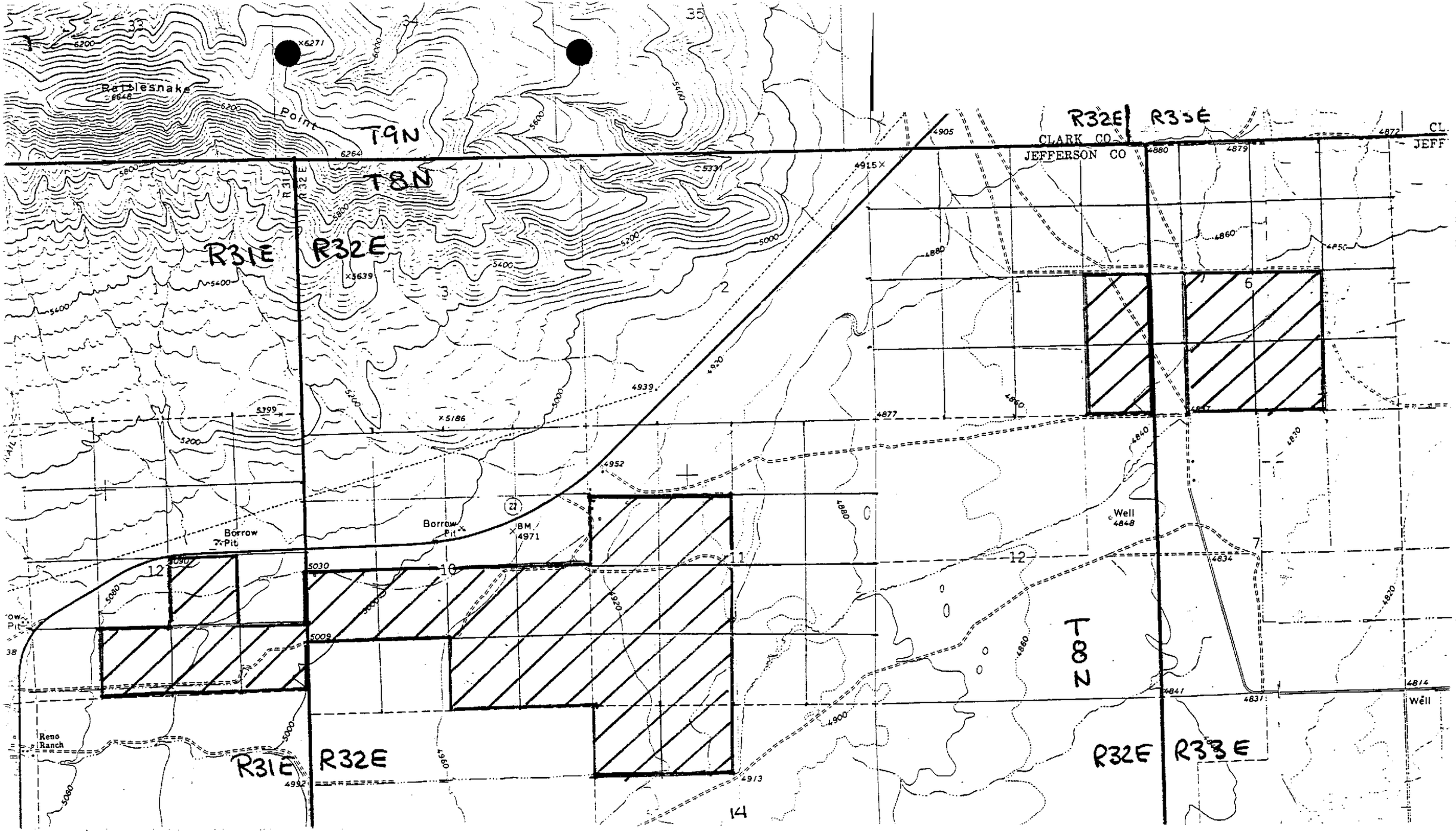
#6936.00/srs

cc: Breck H. Barton, Esq.

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
P. O. BOX 50130
IDAHO FALLS, IDAHO 83405

Keith C. Wilson, Senior Resource Agent
IDAHO DEPT. OF WATER RESOURCES

HAND DELIVER


T9N
T8N
R31E
R32E
R33E
CLARK CO
JEFFERSON CO
Rattlesnake
Point
Borrow Pit
Borrow Pit
BM 4971
Well 4848
Well
Reno Ranch
6271
5639
5399
5186
4971
4915
4939
4952
4905
4880
4877
4860
4850
4840
4830
4820
4834
4841
4831
4814
4913
5030
5090
5080
5000
4992
4960
4900
5331
5400
5200
5000
4920
6200
6264
6000
5600
5800
6648
14

FROM: KEITH C. WILSON 22 MARCH 1991

TO: TRANSFER FILE RIGHTS 32-0067/0090/0093/0068/0089/0069/
-0092/0061C/0091

SUBJECT: MAP

NO MAP WAS FOUND IN A REVIEW OF THIS FILE. HOWEVER, IN THE ENCLOSED COPY OF A LETTER FROM KENT FOSTER (dtd 13 MAR 1991) THE PLACE OF USE IS CONFIRMED TO BE CORRECT AS SHOWN IN PART 1, ITEM B.5. SINCE THIS IS A STATEMENT FROM THE LAWYER FOR BIRCH CREEK RANCHES, I HAVE COMPLETED A COPY OF THE MAP USING THE LEGAL DESCRIPTION FROM PART 1, ITEM B.5.

Keith C Wilson

KEITH C. WILSON
SENIOR RESOURCE AGENT

07 March 1991

Kent Foster
P.O. Box 50130
Idaho Falls, Idaho 83405

RE: Birch Creek Ranches, Inc. Transfers

Dear Mr. Foster:

In the review of the Birch Creek Ranches's transfer for 17.5 cfs I found that the legal description of the proposed place of use (Part 1, Item # B.5), did not agree with the map. In fact the page for the map referred to a map filed with original application. Assuming that this is the map that accompanied the transfer for Mac or Betty Wagoner, Sec 6, T08N, R33E, does not agree with Part 1, Item # B.5. To assist you I have enclosed a copy of Part 1, Item B.5, and maps of that area of Sec 6, T08N, R33E.

In the review of the Birch Creek Ranches's transfer for 4.0 cfs I found that the legal description of the proposed place of use (Part 1, Item # B.5), did not agree with the map (Part # 3). For your convenience enclosed is a copy of the USGS map of the area as described in Part 1 B.5 (Map is from Mac Wagoner's adjudication claims). If this map is correct I already have a copy in this office just let me know, and I'll attach it to the transfer.

Please review the maps and item B.5 to determine the correct place of use.

To complete the review of the applications for transfer please submit a copy of last years's tax notice for the property to which the water right is appurtenant (Attachment No. 3 for transfer for 4.0 cfs, and Attachment No. 4 for transfer for 17.5 cfs) or other documents which show ownership.

Please respond on or before 20 March 1991. Processing of the transfer will continue upon receipt of the information.

Sincerely,

Keith C. Wilson
Senior Resource Agent

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
MICHAEL D. CRAPO
GAYLE A. SORENSON
DONALD L. HARRIS
RANDALL B. REED
MARIE T. FEELEY
JOHN G. SIMMONS
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

MAR 14 1991

March 13, 1991

Keith C. Wilson, Senior Resource Agent
IDAHO DEPARTMENT OF WATER RESOURCES
150 Shoup Avenue, #15
Idaho Falls, Idaho 83402

RE: Birch Creek Ranches, Inc.
Amended Applications for Transfer

Dear Mr. Wilson:

In response to your letter of March 7th which we received on the 11th:

1. With respect to the portion of Birch Creek Ranches' Amended Application for Transfer of 17.5 cfs to D & D lands, the correct place of use is shown under Part 1, Item # B.5. The map we referred to was not the map submitted by Mac and Betty Wagoner, but rather the map filed with the original Birch Creek Ranches application in April of 1989. This water is leased to D & D Enterprises and we relied upon the legal description of 960 acres supplied by Mr. Jim DeMordaunt. We do not know for certain who prepared the map for the Wagoner application; we thought it was Ron Carlson.

2. With respect to the portion of Birch Creek Ranches' Amended Application for Transfer for 4.0 cfs to Wagoner lands, we copied Part 1, Item # B.5 and the map from the copy of Wagoners' application which was furnished to us by Mr. Breck Barton, and we assumed that the correct description was contained in Part 1, Item # B.5. We neither prepared nor reviewed the map submitted by Mr. Wagoner; again, we thought it was all prepared by Ron Carlson, but really do not know for certain.

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
P. O. BOX 50130
IDAHO FALLS, IDAHO 83405

Keith C. Wilson, Senior Resource Agent
IDAHO DEPT. OF WATER RESOURCES

HAND DELIVER

As between the map and the 960 acres of D & D land described in Part 1, Item # B.5, we think the latter is correct. As between the map and the 339 acres of Wagoner land shown in Part 1, Item # B.5, we think you will need to consult with Wagoners or their attorney to determine which is correct.

We have requested copies of the tax notices for the 960 acres of Birch Creek Ranches' lands and will forward them when they arrive. Because these are amendments of the application filed in 1989, and because notice of that application was already published, we thought this item was no longer necessary.

Yours very truly,

Kent W. Foster

#6936.00/srs

cc: Breck H. Barton, Esq.

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00061C  Prefix Translation: ADJUDICATION CLAIM  Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| *** O - ORIGINAL OWNER *** | | |
| RENO | JEROME F. | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | | (33) CLARK | |
| 10N | 29E | 14 | NW NE NE | | | (33) CLARK | |
| 10N | 29E | 24 | NE NW NE | | | (33) CLARK | |
| 10N | 29E | 24 | SE SE NE | | | (33) CLARK | |
| 10N | 30E | 29 | SE NW SW | | | (33) CLARK | |
| 10N | 30E | 32 | SE NW NW | | | (33) CLARK | |
| 10N | 30E | 32 | NW SE SW | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 1.600 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 1.600 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |

Water right number - A32-00061C  Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | 25.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |

Water right number - A32-00061C  Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 30E | 19 | SE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |

Total Acres: 960.0

Diversion Means - PUMPS TO SPRINKLERS, HEADGATES TO DITCHES FOR FLOOD IRRIGATION

Non-Irrigation Use - S/1000 RANGE CATTLE

Other Rights for Same Use - 32-0067/0068/0069/0089/0090/0092B/0093

Remarks

P/D COMBINED BY TRANS. 2165.
STOCK WATER DIRECTLY FROM DITCHES AND CREEK
TRANSFER REDUCED RIGHT BY 1.2 CFS; HOWEVER, THIS PORTION OF THE
RIGHT WAS MOVED UPSTREAM IN THE TRANSFER AND SHOULD NOT HAVE BEEN
ASSESSED A STREAM LOSS. THIS RIGHT REFLECTS HOW CLAIMANT WANTS
THE RIGHT TO READ.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff: AGNES B. RENO, ET AL.

Decree Defendant: J. R. RICHARDS, ET AL.

Decree Date: 09/06/1922

Audit Fields - 06/15/88 MOBILE2 04/11/90 WRAY

Comments

No Comments Found

Water right number - A32-00061C  Prefix Translation: ADJUDICATION CLAIM

Adjudication Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 06/03/1985 | Old Judicial District | - |
| Claim Received Date | - 06/15/1988 | Last Amended Date | - 04/11/1990 | Temporary Right | - P |
| Proof Due Date | - 00/00/0000 | Proof Made Date | - 00/00/0000 | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Receipt Number | - M000115 | Federal/State Indicator | - S |
| Claims Tape Error Flg | - | POU Ownership Flag | - Y | Presumption Flag | - |
| Fee Exempt Flag | - | Name Connector | - | | |

Water Right Number - A32-00061D  Prefix Translation: ADJUDICATION CLAIM  Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| D & D ENTERPRISES | | 1 - C/O PETERSEN, MOSS & OLSEN<br>2 - 485 E STREET<br>3 -<br>City- IDAHO FALLS State- ID Zip- 83402<br>Phone - 208-523-4650 |
| *** O - ORIGINAL OWNER *** | | |
| RENO | JEROME F. | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- N/A<br>Phone - 208-000-0000 |
| *** A - ATTORNEY *** | | |
| PETERSEN, JR. | GEORGE C. | 1 - C/O PETERSEN, MOSS & OLSEN<br>2 - 485 E STREET<br>3 -<br>City- IDAHO FALLS State- ID Zip- 83402<br>Phone - 208-523-4650 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 08N | 30E | 3 | NE NE SW | | (33) | CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 2.800 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 2.800 | | | 365.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 08N | 32E | 11 | SW NW | | 29.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 11 | SE NW | | 32.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 11 | NE SW | | 36.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 11 | NW SW | | 36.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 11 | SW SW | | 38.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 11 | SE SW | | 27.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 14 | NE NW | | 17.0 | 01 | IRRIGATION | (51 ) JEFFERSON |
| 08N | 32E | 14 | NW NW | | 36.0 | 01 | IRRIGATION | (51 ) JEFFERSON |

Total Acres: 251.0

Water right number - A32-00061D          Prefix Translation:  ADJUDICATION CLAIM

+ - - Diversion Means - HEADWORKS OF SORENSEN ENGR. HYDRO PROJECT

+ - - Non-Irrigation Use - NONE

+ - - Other Rights for Same Use - RT. 32-0070A & 32-02043

+ - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - Remarks - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - +

P/D & P/U COMBINED BY TRANS. 2443.
1.2 CFS WILL REMAIN IN BIRCH CK. TO MAKE UP FOR THE TRANSMISSION
LOSSES IN CONVEYING THE TRANSFERRED WATER.
SEE A32-00060A

+ - - - - - - - - - - - - - - - - - - - - - - - - - - - Old Water Right Numbers - - - - - - - - - - - - - - - - - - - - - - - - - - - +

No Old Water Right Numbers found.

+ - - - - - - - - - - - - - - - - - - - - - - - - - - - Conditions of Approval - - - - - - - - - - - - - - - - - - - - - - - - - - - +

No Conditions of Approval found.

| + - - - - Decree Plaintiff - - - + | + - - - - Decree Defendant - - - + | + - Decree Date - + |
|---|---|---|
| AGNES B. RENO, ET AL. | J. R. RICHARDS, ET AL. | 09/06/1922 |

+ - - Audit Fields - 06/28/88 CARLSEN 08/16/89 VERNER

+ - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -Comments- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - +

No Comments Found

+ - - - - - - - - - - - - - - - - - - - - - - Adjudication Rights Dates and Flags Area - - - - - - - - - - - - - - - - - - - - - - - - +

| | | | | | |
|---|---|---|---|---|---|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 06/03/1985 | Old Judicial District | - |
| Claim Received Date | - 06/29/1988 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| Proof Due Date | - 00/00/0000 | Proof Made Date | - 00/00/0000 | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Receipt Number | - E000583 | Federal/State Indicator | - S |
| Claims Tape Error Flg | - | POU Ownership Flag | - Y | Presumption Flag | - |
| Fee Exempt Flag | - | Name Connector | - AND/OR | | |

Water Right Number - A32-00068 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| *** O - ORIGINAL OWNER *** | | |
| WOOD LIVESTOCK CO. | | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1887 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | | (33) CLARK | |
| 10N | 29E | 14 | NW NE NE | | | (33) CLARK | |
| 10N | 29E | 24 | NE NW NE | | | (33) CLARK | |
| 10N | 29E | 24 | SE SE NE | | | (33) CLARK | |
| 10N | 30E | 29 | SW NW SW | | | (33) CLARK | |
| 10N | 30E | 32 | SE NW NW | | | (33) CLARK | |
| 10N | 30E | 32 | NW SE SW | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 3.200 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 3.200 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |

Water right number - A32-00068 Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | 25.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |

Water right number - A32-00068 Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 30E | 19 | SE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |

Total Acres: 960.0

Diversion Means - PUMP TO SPRINKLERS, HEADGATES TO DITCHES FOR FLOOD IRRIGATIOHN

Non-Irrigation Use - S/1000 RANGE CATTLE

Other Rights for Same Use - 32-0089, 0090, 0093, 0067, 0061, 0092, 0069

Remarks

AS PER TRANS #2165.
STOCK WATER DIRECTLY FROM DITCHES AND CREEK

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff
AGNES B. RENO, ET. AL.

Decree Defendant
J. R. RICHARDS, ET. AL.

Decree Date
09/06/1922

Audit Fields - 06/15/88 MOBILE2 04/11/90 WRAY

Comments

No Comments Found

Adjudication Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 07/15/1985 | Old Judicial District | - |

Water right number - A32-00068 Prefix Translation: ADJUDICATION CLAIM

Adjudication Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Claim Received Date | - 06/15/1988 | Last Amended Date | - 04/11/1990 | Temporary Right | - P |
| Proof Due Date | - 00/00/0000 | Proof Made Date | - 00/00/0000 | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Receipt Number | - M000115 | Federal/State Indicator | - S |
| Claims Tape Error Flg | - | POU Ownership Flag | - Y | Presumption Flag | - |
| Fee Exempt Flag | - | Name Connector | - | | |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00069 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| *** O - ORIGINAL OWNER *** | | |
| WOOD LIVESTOCK CO. | | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion — Stream Index (Blank if no Index Code)

| Twn | Rng | Sec | Tract | Lot | RFlg | County |
|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | (33) | CLARK |
| 10N | 29E | 14 | NW NE NE | | (33) | CLARK |
| 10N | 29E | 24 | NE NW NE | | (33) | CLARK |
| 10N | 29E | 24 | SE SE NE | | (33) | CLARK |
| 10N | 30E | 29 | SW NW SW | | (33) | CLARK |
| 10N | 30E | 32 | SE NW NW | | (33) | CLARK |
| 10N | 30E | 32 | NW SE SW | | (33) | CLARK |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 3.200 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 3.200 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |

Water right number - A32-00069 Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | 25.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |

Water right number - A32-00069 Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 30E | 19 | SE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |

Total Acres: 960.0

Diversion Means - PUMPS TO SPRINKLERS, HEADGATES TO DITCHES FOR FLOOD IRRIGATION

Non-Irrigation Use - S/1000 RANGE CATTLE

Other Rights for Same Use - 32-0068, 0089, 0090, 0093, 0067, 0061, 0092

Remarks

AS PER TRANS # 2165.
STOCK WATER DIRECTLY FROM DITCHES AND CREEK

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

| Decree Plaintiff | Decree Defendant | Decree Date |
|---|---|---|
| AGNES B. RENO ET. AL | J. R. RICHARDS ET. AL. | 09/06/1922 |

Audit Fields - 06/15/88 MOBILE2 04/11/90 WRAY

Comments

No Comments Found

Adjudication Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 07/15/1985 | Old Judicial District | - |

Water right number - A32-00069 Prefix Translation: ADJUDICATION CLAIM

+ - - - - - - - - - - - - - - - - - - - - - - Adjudication Rights Dates and Flags Area - - - - - - - - - - - - - - - - - - - - - - +

| | | | | | |
|---|---|---|---|---|---|
| Claim Received Date | - 06/15/1988 | Last Amended Date | - 04/11/1990 | Temporary Right | - P |
| Proof Due Date | - 00/00/0000 | Proof Made Date | - 00/00/0000 | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Receipt Number | - M000115 | Federal/State Indicator | - S |
| Claims Tape Error Flg | - | POU Ownership Flag | - Y | Presumption Flag | - |
| Fee Exempt Flag | - | Name Connector | - | | |

# IDAHO DEPARTMENT OF WATER RESOURCES
# ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00089 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER ***<br>SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| *** O - ORIGINAL OWNER ***<br>WATTS | C. B. | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | 15 EASTERN | D - DECREED | |

Source: BIRCH CREEK

Tributary: SINKS

## Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | | (33) CLARK | |
| 10N | 29E | 14 | NW NE NE | | | (33) CLARK | |
| 10N | 29E | 24 | NE NW NE | | | (33) CLARK | |
| 10N | 29E | 24 | SE SE NE | | | (33) CLARK | |
| 10N | 30E | 29 | SW NW SW | | | (33) CLARK | |
| 10N | 30E | 32 | SE NW NW | | | (33) CLARK | |
| 10N | 30E | 32 | NW SE SW | | | (33) CLARK | |

## Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 2.500 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 2.500 | | | 2215.0 | |

## Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |

Water right number - A32-00089 Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 38.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 38.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | NE SE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | 8.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | 28.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 2.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 2.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | 12.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NW | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | 25.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SE | | 2.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | 38.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | 38.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 24 | NE SE | | | 04 | STOCKWATER | (33 ) CLARK |

Water right number - A32-00089 Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 24 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |

Total Acres: 886.0

*Diversion Means* - PUMPS TO SPRINKLERS, HEADGATES TO DITCHES FOR FLOOD IRRIGATION

Non-Irrigation Use - S/1000 RANGE CATTLE

Other Rights for Same Use - 32-0090, 0093, 0067, 0068, 0061, 0092, 0069

Remarks

AS PER TRANS. #2165.
STOCK WATER DIRECTLY FROM DITCHES AND CREEK

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff
AGNES B. RENO, ET. AL.

Decree Defendant
J. R. RICHARDS, ET. AL.

Decree Date
09/06/1922

Audit Fields - 06/15/88 MOBILE2

Water right number - A32-00089 Prefix Translation: ADJUDICATION CLAIM

-Comments-

No Comments Found

Adjudication Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 12/09/1985 | Old Judicial District | - |
| Claim Received Date | - 06/15/1988 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| Proof Due Date | - 00/00/0000 | Proof Made Date | - 00/00/0000 | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Receipt Number | - M000115 | Federal/State Indicator | - S |
| Claims Tape Error Flg | - | POU Ownership Flag | - Y | Presumption Flag | - |
| Fee Exempt Flag | - | Name Connector | - | | |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00090 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1886 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | (33) | CLARK | |
| 10N | 29E | 14 | NW NE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NE NW NE | | (33) | CLARK | |
| 10N | 29E | 24 | SE SE NE | | (33) | CLARK | |
| 10N | 30E | 29 | SW NW SW | | (33) | CLARK | |
| 10N | 30E | 32 | SE NW NW | | (33) | CLARK | |
| 10N | 30E | 32 | NW SE SW | | (33) | CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 1.600 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 1.600 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

Water right number - A32-00090 Prefix Translation: ADJUDICATION CLAIM

| Place of Use | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
| 10N | 29E | 13 | NW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | 25.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |

Water right number - A32-00090 Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 30E | 30 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |

Total Acres: 960.0

Diversion Means - PUMPS TO SPRINKLERS, HEADGATE TO DITCHES FOR FLOOD IRRIGATION

Non-Irrigation Use - S/1000 RANGE CATTLE

Other Rights for Same Use - 32-0093/0067/0068/0061/0089/0069/0092

Remarks

AS PER TRANS. #2165.
STOCK DRINK DIRECTLY FROM DITCHES AND CREEK

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

| Decree Plaintiff | Decree Defendant | Decree Date |
|---|---|---|
| AGNES B. RENO, ET. AL. | J. R. RICHARDS, ET. AL. | 09/06/1922 |

Audit Fields - 06/15/88 MOBILE2 04/11/90 WRAY

Comments

No Comments Found

Adjudication Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 07/15/1985 | Old Judicial District | - |
| Claim Received Date | - 06/15/1988 | Last Amended Date | - 04/11/1990 | Temporary Right | - P |
| Proof Due Date | - 00/00/0000 | Proof Made Date | - 00/00/0000 | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Receipt Number | - M000115 | Federal/State Indicator | - S |
| Claims Tape Error Flg | - | POU Ownership Flag | - Y | Presumption Flag | - |
| Fee Exempt Flag | - | Name Connector | - OR | | |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00091 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| WAGONER | BLANCHE | 1 - STAR ROUTE<br>2 -<br>3 -<br>City- LEADORE State- ID Zip- 83464<br>Phone - 208-000-0000 |
| *** O - ORIGINAL OWNER *** | | |
| KAUFMAN | EDWARD | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/01/1901 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| PASS CREEK | BIRCH CREEK |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 30E | 30 | NE NE SW | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 0.500 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 0.500 | | | 230.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 30E | 29 | NW SW | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 11.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE SE | | 33.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW SE | | 2.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE SE | | 1.0 | 01 | IRRIGATION | (33 ) CLARK |

Total Acres: 92.0

Diversion Means - HEADGATE TO DITCHES FOR FLOOD IRRIGATION

Non-Irrigation Use - NONE

Other Rights for Same Use - A32-00088/10124

Water right number - A32-00091 Prefix Translation: ADJUDICATION CLAIM

Remarks

THE ATTACHED AGREEMENT LIST THIS RIGHT AS BELONGING TO WILLIAM T. SIMMONS; HOWEVER, THE DOCUMENT IS INTENDED TO SHOW THAT HE HAS NO RIGHTS IN PASS CREEK.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

| Decree Plaintiff | Decree Defendant | Decree Date |
|---|---|---|
| AGNES B. RENO, ET. AL. | J. R. RICHARDS, ET. AL. | 09/06/1922 |

Audit Fields - 07/22/88 WILSON

Comments

No Comments Found

Adjudication Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 07/15/1985 | Old Judicial District | - |
| Claim Received Date | - 07/27/1988 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| Proof Due Date | - 00/00/0000 | Proof Made Date | - 00/00/0000 | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Receipt Number | - E000903 | Federal/State Indicator | - S |
| Claims Tape Error Flg | - | POU Ownership Flag | - Y | Presumption Flag | - |
| Fee Exempt Flag | - | Name Connector | - OR | | |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00091A  Prefix Translation: ADJUDICATION CLAIM  Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| BIRCH CREEK RANCHES, INC. | | 1 - C/O HOLDEN,KIDWELL,HAHN, CRAPO<br>2 - PO BOX 50130<br>3 -<br>City- IDAHO FALLS State- ID Zip- 83405<br>Phone - 208-523-0620 |
| *** O - ORIGINAL OWNER *** | | |
| KAUFMAN | EDWARD | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/01/1901 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE SW | | (33) | CLARK | |
| 10N | 29E | 14 | NE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NW NE | | (33) | CLARK | |
| 10N | 29E | 24 | SE NE | | (33) | CLARK | |
| 10N | 30E | 29 | NW SW | | (33) | CLARK | |
| 10N | 30E | 32 | NW NW | | (33) | CLARK | |
| 10N | 30E | 32 | SE SW | | (33) | CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 0.500 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 0.500 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |

Water right number - A32-00091A  Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | 25.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

Total Acres: 960.0

Diversion Means - HEADGATE TO DITCHES FOR FLOOD IRRIGATION/ PUMPS TO SPRINKLERS

Non-Irrigation Use - S/ 1000 HEAD CATTLE

Other Rights for Same Use - A32-00061C, 00067-69, 89-90, 92B, 93

Remarks

AS PER TRANSFER NO. 2165

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff
AGNES B. RENO, ET. AL.

Decree Defendant
J. R. RICHARDS, ET. AL.

Decree Date
00/00/0000

Audit Fields - 04/12/90 DCARLSON 12/05/90 SMITH

Water right number - A32-00091A  Prefix Translation: ADJUDICATION CLAIM

-Comments-

No Comments Found

Adjudication Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 00/00/0000 | Old Judicial District | - |
| Claim Received Date | - 04/11/1990 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| Proof Due Date | - 00/00/0000 | Proof Made Date | - 00/00/0000 | Water District | - 32D |
| Licensed Date | - 00/00/0000 | Receipt Number | - E013061 | Federal/State Indicator | - S |
| Claims Tape Error Flg | - | POU Ownership Flag | - Y | Presumption Flag | - |
| Fee Exempt Flag | - | Name Connector | - OR | | |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00092A  Prefix Translation: ADJUDICATION CLAIM  Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER ***<br>JUDY | JANICE M. | 1 - 3580 WEST ELSWOOD<br>2 -<br>3 -<br>City- DUBOIS State- ID Zip- 83402<br>Phone - 208-523-1154 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | Error in Region | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 30E | 32 | NW NW NW | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 1.000 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 0.100 | | | 20.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 30E | 32 | NW NW | | 8.0 | 01 | IRRIGATION | (33 ) CLARK |
| | | | Total Acres: | | 8.0 | | | |

Diversion Means - HEADGATE IN STREAM W/ V-NOTCH WEIR TO POND/PUMPED FROM POND.

Non-Irrigation Use - NONE

Other Rights for Same Use - NONE

Remarks

SHARE OF THIS RIGHT OBTAINED BY LAND PURCHASE IN WARRANTY DEED ATTACHED.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

| Decree Plaintiff | Decree Defendant | Decree Date |
|---|---|---|
| AGNES B. RENO, ET. AL. | J. R. RICHARDS, ET. AL. | 09/06/1922 |

Water right number - A32-00092A  Prefix Translation: ADJUDICATION CLAIM

+ - - Audit Fields - 06/09/88 MOBILE4

+ - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -Comments- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - +

No Comments Found

+ - - - - - - - - - - - - - - - - - - - - - - - - Adjudication Rights Dates and Flags Area - - - - - - - - - - - - - - - - - - - - - - - - +

| | | | | | |
|---|---|---|---|---|---|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - Y | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 00/00/0000 | Old Judicial District | - |
| Claim Received Date | - 06/09/1988 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| Proof Due Date | - 00/00/0000 | Proof Made Date | - 00/00/0000 | Water District | - |
| Licensed Date | - 00/00/0000 | Receipt Number | - M000083 | Federal/State Indicator | - S |
| Claims Tape Error Flg | - | POU Ownership Flag | - Y | Presumption Flag | - |
| Fee Exempt Flag | - | Name Connector | - | | |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00092B  Prefix Translation: ADJUDICATION CLAIM  Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1888 | Error in Region | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | | (33) CLARK | |
| 10N | 29E | 14 | NW NE NE | | | (33) CLARK | |
| 10N | 29E | 24 | NE NW NE | | | (33) CLARK | |
| 10N | 29E | 24 | SE SE NE | | | (33) CLARK | |
| 10N | 30E | 29 | SW NW SW | | | (33) CLARK | |
| 10N | 30E | 32 | SE NW NW | | | (33) CLARK | |
| 10N | 30E | 32 | NW SE SW | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 2.500 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 2.500 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |

Water right number - A32-00092B  Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 13 | NW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | 25.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |

Water right number - A32-00092B  Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 30E | 30 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |

Total Acres: 960.0

Diversion Means - PUMP TO SPRINKLERS, HEADGATES TO DITCHES FOR FLOOD IRRIGATION

Non-Irrigation Use - S/1000 RANGE CATTLE

Other Rights for Same Use - 32-0061/0067/0068/0069/0089/0090/0093

Remarks

STOCK WATER DIRECTLY FROM DITCHES AND CREEK

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

| Decree Plaintiff | Decree Defendant | Decree Date |
|---|---|---|
| AGNES B. RENO, ET. AL | J. R. RICHARDS, ET. AL | 09/06/1922 |

Audit Fields - 06/15/88 MOBILE2 04/11/90 WRAY

Comments

No Comments Found

Adjudication Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 00/00/0000 | Old Judicial District | - |
| Claim Received Date | - 06/15/1988 | Last Amended Date | - 04/11/1990 | Temporary Right | - P |
| Proof Due Date | - 00/00/0000 | Proof Made Date | - 00/00/0000 | Water District | - |
| Licensed Date | - 00/00/0000 | Receipt Number | - M000115 | Federal/State Indicator | - S |
| Claims Tape Error Flg | - | POU Ownership Flag | - Y | Presumption Flag | - |
| Fee Exempt Flag | - | Name Connector | - OR | | |

Water Right Number - A32-00093 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

| Last Name | First Name | Address |
|---|---|---|
| *** C - CURRENT OWNER *** | | |
| SIMMONS | WILLIAM T. | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| SIMMONS | THEOLA | 1 - HC 69 BOX 2510<br>2 -<br>3 -<br>City- HAMER State- ID Zip- 83425<br>Phone - 208-663-4322 |
| *** O - ORIGINAL OWNER *** | | |
| KAUFMAN | EDWARD | 1 -<br>2 -<br>3 -<br>City- N/A State- ID Zip- 00000<br>Phone - 208-000-0000 |

| Priority Date | Region | Stage | Status |
|---|---|---|---|
| 05/10/1886 | 15 EASTERN | D - DECREED | |

| Source | Tributary |
|---|---|
| BIRCH CREEK | SINKS |

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NE NE SW | | (33) | CLARK | |
| 10N | 29E | 14 | NW NE NE | | (33) | CLARK | |
| 10N | 29E | 24 | NE NW NE | | (33) | CLARK | |
| 10N | 29E | 24 | SE SE NE | | (33) | CLARK | |
| 10N | 30E | 29 | SW NW SW | | (33) | CLARK | |
| 10N | 30E | 32 | SE NW NW | | (33) | CLARK | |
| 10N | 30E | 32 | NW SE SW | | (33) | CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 1.600 | |
| 04 | STOCKWATER | 01/01 | 12/31 | 0.230 | |

| Total Div. Rate | Total Div. Volume | Total Div. Capacity | Total Consumptive Use | KW Usage |
|---|---|---|---|---|
| 1.600 | | | 2215.0 | |

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |

Water right number - A32-00093 Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 11 | NW SE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | 25.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | 10.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | 30.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | 15.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | 20.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | 35.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | 40.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 11 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 11 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 12 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 13 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 14 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 24 | SE SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 29E | 25 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | NW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |

Water right number - A32-00093 Prefix Translation: ADJUDICATION CLAIM

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 30E | 19 | SE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 19 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 29 | SW SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 30 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW NE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SE NW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NE SW | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | NW SE | | | 04 | STOCKWATER | (33 ) CLARK |
| 10N | 30E | 32 | SW SE | | | 04 | STOCKWATER | (33 ) CLARK |

Total Acres: 960.0

Diversion Means - PUMPS TO SPRINKLERS, HEADGATES TO DITCHES FOR FLOOD IRRIGATION

Non-Irrigation Use - S/1000 RANGE CATTLE

Other Rights for Same Use - 32-0067, 0068, 0061, 0089, 0090, 0069, 0092

Remarks

AS PER TRANS #2165.
STOCK WATER DIRECTLY FROM DITCHES AND CREEK

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

| Decree Plaintiff | Decree Defendant | Decree Date |
|---|---|---|
| AGNES B. RENO, ET. AL. | J. R. RICHARDS, ET. AL. | 09/06/1922 |

Audit Fields - 06/15/88 MOBILE2 04/11/90 WRAY

Comments

No Comments Found

Adjudication Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 07/15/1985 | Old Judicial District | - |

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT



Water Right Number - A32-00101 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

*** C - CURRENT OWNER ***
WOODIE LAND AND LIVESTOCK

1 - HC 65 BOX 1018
2 -
3 -
City- HOWE State- ID Zip- 83244
Phone - 208-767-3461

Priority Date: 06/04/1909
Region: Error in Region
Stage: D - DECREED
Status:

Source: BIRCH CREEK
Tributary: SINKS

Point of Diversion

| Twn | Rng | Sec | Tract | Lot | RFlg | County | Stream Index (Blank if no Index Code) |
|---|---|---|---|---|---|---|---|
| 10N | 29E | 3 | SE SE NE | | | (33) CLARK | |

Water Use

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---|---|---|---|---|---|
| 01 | IRRIGATION | 04/01 | 11/01 | 2.900 | |

Total Div. Rate: 2.900
Total Div. Volume:
Total Div. Capacity:
Total Consumptive Use: 160.0
KW Usage:

Place of Use

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|---|---|---|---|---|---|---|---|---|
| 10N | 29E | 2 | SW SW | | 12.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 3 | SE NE | | 5.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 3 | NE SE | | 19.0 | 01 | IRRIGATION | (33 ) CLARK |
| 10N | 29E | 3 | SE SE | | 28.0 | 01 | IRRIGATION | (33 ) CLARK |

Total Acres: 64.0

Diversion Means - DITCH TO FLOOD IRRIGATION

Non-Irrigation Use - NONE

Other Rights for Same Use - 32-0072.

Remarks

Old Water Right Numbers
No Old Water Right Numbers found.

Conditions of Approval
No Conditions of Approval found.

Water right number - A32-00101 Prefix Translation: ADJUDICATION CLAIM

| Decree Plaintiff | Decree Defendant | Decree Date |
|---|---|---|
| AGNES B. RENO, ET. AL. | J. R. RICHARDS, ET. AL. | 00/00/0000 |

Audit Fields - 04/11/88 JONES 04/18/88 SHAFF 05/19/88 NOYES

Comments
No Comments Found

Adjudication Rights Dates and Flags Area

| | | | | | |
|---|---|---|---|---|---|
| Court Report Filing | 00/00/0000 | Field Inspection Made | 00/00/0000 | Civil Case Number | 39576 |
| Objection Filed Date | 00/00/0000 | Field Inspection Flag | | Old Case Number | |
| Response Filed Date | 00/00/0000 | Verified Date | 00/00/0000 | Old Judicial District | |
| Claim Received Date | 04/11/1988 | Last Amended Date | 00/00/0000 | Temporary Right | P |
| Proof Due Date | 00/00/0000 | Proof Made Date | 00/00/0000 | Water District | |
| Licensed Date | 00/00/0000 | Receipt Number | E000085 | Federal/State Indicator | S |
| Claims Tape Error Flg | | POU Ownership Flag | Y | Presumption Flag | |
| Fee Exempt Flag | | Name Connector | | | |

2-15-91

Form 222a
6/78

# STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES
# TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: Keith C Wilson 89/0090/0091/0092/0093

1. Right number 32-0061C/0101/0068/0069/00 Applicant Birch Creek Ranches
2. Type of right: ☐ Decree ☑ License ☐ Claim
3. Purpose of transfer: ☑ Change point of diversion ☐ Add diversion point(s) ☑ Change place of use
   ☐ Other _____
4. Check:
   a. ☑ Source ☑ Priority ☑ Amount ☑ Purpose ☐ Period of use
   b. ☐ Description of original point of diversion.
   c. ☑ Description of original place of use.
5. Amount of land &/or water transferred:
   a. ☑ All of right.
   b. ☑ Part of right *(NOTE! Part B should be filled in only if part of the right is owned by the applicant).*
   c. ☑ Check description of point(s) of diversion. } P/D Map from 32-07128
   d. ☑ Check description of place of use.
   e. ☐ Check map (shows p.d. and p.u. after transfer) } NOTE LETTER FROM KENT FOSTER MAP IS FROM item B.5 Part (.
   f. ☑ Check for correct signature, notarization, and fee.
   g. ☑ Check proof of ownership of right &/or land from which water is transferred. ~~NEED OWNERSHIP FOR:~~ Sec 19, 29, 30, 32 T10N R30E OWNERSHIP P/a OK Sec 11, 12, 13, 14, 24, 25 T10N R29E
   h. ☑ Check for expansion in use of right. Comments Expansion of 32-00690 See NOTE #2 on analysis of transfer
   i. ☑ Check for existing water rights from same source, on land water is being transferred to.
      Right number(s) See Transfer Birch Ck. Ranch
   j. ☐ Is use within a Watermaster District? ☑ Yes ☐ No
      If yes, what district? 32D

OK KW 4/19/91

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No NOP 5-6-91
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____
4. By _____ Date _____

* *All uses within Watermaster Districts require special conditions.*

# 1994

**TRANSFER APPLICATION**
**FOR**
**BIRCH CREEK RANCHES**
**9:00 A.M.**
**JULY 14, 1994**
900 N SKYLINE
IDAHO FALLS ID 83402

| Name | Representing | Address |
|---|---|---|
| Blair Grover | LaVar Newman | 309 N 4500 E Rigby 83442 |
| Lewis Newman | LaVar Newman | 2979N 800E Menan ID 83435 |
| KENT W. FOSTER | BIRCH CRK RCHS / SORENSEN | P.O. BOX 50130 IF 83405 |
| Ted S. Sorenson | " " | 5203 South 11th East Ict. |
| [signature] | D & D Enterprises | 485 F Street FF |
| Gin DeMordaunt | D&D Enterprises | P.O. Box [illegible] Rexburg |
| Wagoner | Wagoner Ranch | PO Box 43 Dubois ID 83423 |
| Betty Wagoner | Wagoner Ranch | PO Box 296 Dubois ID 83423 |
| Mac Wagoner | Wagoner Ranch | PO Box 296 Dubois ID 83423 |
| Breck Barton | Wagoners | Box 100 Rigby |

Pre-hearing Conf. - Birch Creek Ranches 7-14-94

1/ Delete - #3553

2/ Keep - #4352

3/ Various transfers cause various transmission losses.
Don Shinton - can you determine diff. strength losses?

* 4/ Possible solutions;
1/ 4 cfs transfer goes foward with loss of 10 inches to Wassmers
2/ Mac's application stays pendings until what date? ~~Sept. 15, 1994~~ Before first of Aug, 1994 or all transfers withdrawn.

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
305 WEST MAIN
REXBURG, IDAHO 83440

BRECK H. BARTON

P.O. BOX 100
(208) 356-4880

June 29, 1994

RECEIVED
JUL - 5 1994
Department of Water Resources
Eastern District Office

Mr. Ron Carlson
Idaho Department of Water Resources
900 N Skyline Dr.
Idaho Falls, ID 83401

Dear Mr. Carlson:

We received a notice of hearing in the matter of application for transfer numbers 3553 and 3828 in the name of Birch Creek Ranches. Appended to the Notice of Hearing was the cover sheet of an original application for transfer together with an amended application for transfer.

The original application for transfer suggested that water rights 32-0067 in the amount of 3.2 cfs and one-half of water right 32-0090 in the amount of .8 cfs be transferred. We understand that this water right is to be transferred to the ranching property of Mac and Betty Wagoner.

The amended application simply said see attachment 2. It did not list any specific water rights but contained the notation that Birch Creek Ranches and Mac and Betty Wagoner had resolved their dispute by way of memorandum agreement which was listed as an attachment to the amended application.

Mac and Betty Wagoner have previously filed an application for transfer of certain of their water rights. By amendment, Mac and Betty Wagoner requested that said water rights be transferred to Birch Creek Ranches, Inc. with the place of use being designated as the former Simmons ranch property in Clark County. This action was undertaken, that is the amendment was filed based upon communication from the department that if an amendment were filed the department could approve that portion of the Birch Creek Ranches/Wagoner transfer given the fact that there had been a prior stipulation by counsel indicating no objection to that transfer.

I am unclear whether or not the hearing intended to be held on July 14, 1994, will address the application of Wagoner to transfer their water to the Birch Creek Ranches, Inc. property at a point of diversion upstream from the Wagoner ranch. I am also unaware whether or not the hearing will cover the proposed transfer of the Birch Creek Ranches, Inc. water right from its upstream location to the Wagoner property. It seems to me that as the transfers pertain to Wagoners, the hearing should include the swap of the

water rights between Wagoners and Birch Creek.

Will you please advise whether or not the hearing officer intends to cover the application of Birch Creek Ranches, Inc. to transfer a portion of their water rights to Mac and Betty Wagoner and whether the hearing officer intends to cover the application of Mac and Betty Wagoner to transfer their water rights to Birch Creek Ranches, Inc. I look forward to your earliest convenient response and thank you in advance for your courtesies.

Very truly yours,

Dictated by Mr. Barton and mailed without signature in his absence to avoid delay.

Breck Barton

BB/cb

cc: Kent Foster
George Peterson
Blair Grover

29-Jun-1994

MAC & BETTY WAGONER
PO BOX 296
DUBOIS ID 83423

Dear Mr. & Mrs. Wagoner:

The hearing scheduled for Birch Creek Ranches on water right Transfers No.'s 3553 and 3829 which will be held on July 14, 1994 at 9:00 a.m. at the Idaho Falls office of IDWR has been modified to a pre-hearing conference at the request of the applicant.

The issues to be discussed will include among other items, applications for transfer filed by Birch Creek Ranches and Mac & Betty Wagoner.

Sincerely,

Harold W. Jones rb

HAROLD W. JONES
Water Right Supervisor

HWJ/rb

29-Jun-1994

H MARGERY BARE
PO BOX 72
DUBOIS ID 83423

Dear Ms. Bare:

The hearing scheduled for Birch Creek Ranches on water right Transfers No.'s 3553 and 3829 which will be held on July 14, 1994 at 9:00 a.m. at the Idaho Falls office of IDWR has been modified to a pre-hearing conference at the request of the applicant.

The issues to be discussed will include among other items, applications for transfer filed by Birch Creek Ranches and Mac & Betty Wagoner.

Sincerely,

Harold W. Jones rb
HAROLD W. JONES
Water Right Supervisor

HWJ/rb

29-Jun-1994

JIM DEMORDAUNT
PO BOX 5
REXBURG ID 83440

Dear Mr. Demordaunt:

The hearing scheduled for Birch Creek Ranches on water right Transfers No.'s 3553 and 3829 which will be held on July 14, 1994 at 9:00 a.m. at the Idaho Falls office of IDWR has been modified to a pre-hearing conference at the request of the applicant.

The issues to be discussed will include among other items, applications for transfer filed by Birch Creek Ranches and Mac & Betty Wagoner.

Sincerely,

Harold W. Jones rb
HAROLD W. JONES
Water Right Supervisor

HWJ/rb

29-Jun-1994

JOHN D HANSEN
PO BOX 51718
IDAHO FALLS ID 83405

Dear Mr. Hansen:

The hearing scheduled for Birch Creek Ranches on water right Transfers No.'s 3553 and 3829 which will be held on July 14, 1994 at 9:00 a.m. at the Idaho Falls office of IDWR has been modified to a pre-hearing conference at the request of the applicant.

The issues to be discussed will include among other items, applications for transfer filed by Birch Creek Ranches and Mac & Betty Wagoner.

Sincerely,

Harold W. Jones
rb

HAROLD W. JONES
Water Right Supervisor

HWJ/rb

29-Jun-1994

KENT FOSTER
BIRCH CREEK RANCHES
PO BOX 50130
IDAHO FALLS ID 83405

Dear Mr. Foster:

The hearing scheduled for Birch Creek Ranches on water right Transfers No.'s 3553 and 3829 which will be held on July 14, 1994 at 9:00 a.m. at the Idaho Falls office of IDWR has been modified to a pre-hearing conference at the request of the applicant.

The issues to be discussed will include among other items, applications for transfer filed by Birch Creek Ranches and Mac & Betty Wagoner.

Sincerely,

Harold W. Jones rb

HAROLD W. JONES
Water Right Supervisor

HWJ/rb

29-Jun-1994

GEORGE PETERSON
485 E STREET
IDAHO FALLS ID 83402

Dear Mr. Peterson:

The hearing scheduled for Birch Creek Ranches on water right Transfers No.'s 3553 and 3829 which will be held on July 14, 1994 at 9:00 a.m. at the Idaho Falls office of IDWR has been modified to a pre-hearing conference at the request of the applicant.

The issues to be discussed will include among other items, applications for transfer filed by Birch Creek Ranches and Mac & Betty Wagoner.

Sincerely,

Harold W. Jones
xb

HAROLD W. JONES
Water Right Supervisor

HWJ/rb

29-Jun-1994

BRECK H BARTON
PO BOX 100
REXBURG ID 83440

Dear Mr. Barton:

The hearing scheduled for Birch Creek Ranches on water right Transfers No.'s 3553 and 3829 which will be held on July 14, 1994 at 9:00 a.m. at the Idaho Falls office of IDWR has been modified to a pre-hearing conference at the request of the applicant.

The issues to be discussed will include among other items, applications for transfer filed by Birch Creek Ranches and Mac & Betty Wagoner.

Sincerely,

Harold W. Jones

HAROLD W. JONES
Water Right Supervisor

HWJ/rb

29-Jun-1994

TED SORENSON
SORENSON ENGINEERING
5203 S 11TH EAST
IDAHO FALLS ID 83404

Dear Mr. Sorenson:

The hearing scheduled for Birch Creek Ranches on water right Transfers No.'s 3553 and 3829 which will be held on July 14, 1994 at 9:00 a.m. at the Idaho Falls office of IDWR has been modified to a pre-hearing conference at the request of the applicant.

The issues to be discussed will include among other items, applications for transfer filed by Birch Creek Ranches and Mac & Betty Wagoner.

Sincerely,

Harold W. Jones rb

HAROLD W. JONES
Water Right Supervisor

HWJ/rb

29-Jun-1994

BLANCHE WAGONER
STAR ROUTE
LEADORE ID 83464

Dear Ms. Wagoner:

The hearing scheduled for Birch Creek Ranches on water right Transfers No.'s 3553 and 3829 which will be held on July 14, 1994 at 9:00 a.m. at the Idaho Falls office of IDWR has been modified to a pre-hearing conference at the request of the applicant.

The issues to be discussed will include among other items, applications for transfer filed by Birch Creek Ranches and Mac & Betty Wagoner.

Sincerely,

Harold W. Jones rb

HAROLD W. JONES
Water Right Supervisor

HWJ/rb

29-Jun-1994

BLAIR GROVER
PO BOX 36
RIGBY ID 83442

Dear Mr. Grover:

The hearing scheduled for Birch Creek Ranches on water right Transfers No.'s 3553 and 3829 which will be held on July 14, 1994 at 9:00 a.m. at the Idaho Falls office of IDWR has been modified to a pre-hearing conference at the request of the applicant.

The issues to be discussed will include among other items, applications for transfer filed by Birch Creek Ranches and Mac & Betty Wagoner.

Sincerely,

Harold W. Jones
xb

HAROLD W. JONES
Water Right Supervisor

HWJ/rb

29-Jun-1994

ALAN E BARBER
PO BOX 51718
IDAHO FALLS ID 83405

Dear Mr. Barber:

The hearing scheduled for Birch Creek Ranches on water right Transfers No.'s 3553 and 3829 which will be held on July 14, 1994 at 9:00 a.m. at the Idaho Falls office of IDWR has been modified to a pre-hearing conference at the request of the applicant.

The issues to be discussed will include among other items, applications for transfer filed by Birch Creek Ranches and Mac & Betty Wagoner.

Sincerely,

Harold W. Jones rb

HAROLD W. JONES
Water Right Supervisor

HWJ/rb

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FALLS OFFICE

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
JOHN G. SIMMONS, P.A.
ROBERT M. FOLLETT
JAMES K. SLAVENS

WEST ONE BANK
P.O. BOX 50130
330 SHOUP AVENUE
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

KEY FINANCIAL CENTER
702 W. IDAHO SUITE 810
BOISE, IDAHO 83702

TELEPHONE (208) 343-0820
TELEFAX (208) 343-8078

BOISE OFFICE

TODD J. WILCOX
FREDERICK J. HAHN III
RONALD D. CHRISTIAN

ARTHUR W. HOLDEN
(1877-1967)
ROBERT B. HOLDEN
(1911-1971)
TERRY L. CRAPO
(1939-1982)
WILLIAM S. HOLDEN
(1907-1988)

June 17, 1994

RECEIVED
JUN 22 1994
Department of Water Resources
Eastern District Office

Ronald D. Carlson, Regional Manager
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Drive
Idaho Falls, Idaho 83402-1718

RE: Birch Creek Ranches Transfer Hearing

Dear Mr. Carlson:

We are in receipt of your request for Birch Creek Ranches to withdraw "these applications". We do agree that with the D & D failure to renew its lease with Birch Creek Ranches, the place of use set out in some of the applications does not appear to be currently available. But then, D & D had previously protested all the applications anyway, even when it was leasing the water. We imagine D & D is happy to receive the water, which of course it will continue to do, at least in part, as long as the water which would otherwise have been diverted under the Simmons and Woodie rights is not diverted, but allowed to run downstream. Without a formal lease agreement, the price of the water will be much better.

Birch Creek Ranches probably wants to see the matter resolved even more than the director. And there is of course much more to "the matter" than just the recent place of use question precipitated by the D & D decision to "pass on it [the lease] for 1994".

We didn't understand the protestants to ask that the applications be set aside or withdrawn. Mr. Peterson, in his letter of May 26, 1994, argued that "the application for transfer" is "moot" and suggested that the pending hearing on it be "cancelled" and that the application itself be "cancelled". In Mr. Grover's letter of June 3, 1994, he says he endorses Mr. Peterson's comments and suggests that "both the pending application and the one recently filed" should be cancelled.

Normally when an application is incomplete before publication, it is returned to the applicant for further work. We have never before had an application for transfer become incomplete after notice has been published and protests have been filed, so we really have no experience with the correct procedure at this point. We find it surprising that the department would seriously consider going ahead with a hearing on protests to an incomplete application. We don't know whether such an application becomes "moot" and we are aware of no code section or rule that provides for "cancellation" of an application for transfer in this situation. We think it probably would be appropriate to cancel the hearing.

Mr. Sorenson is working as diligently as he can to find an alternative place of use and there are a number of possibilities. But, we assume that when he is successful in finding an alternative place of us, if that new place of use is different from the one contained in a current application, it would be necessary both to amend the current application and to republish notice.

Mr. Sorenson will be happy to cooperate in every appropriate way, but we think more detailed direction from you would be helpful. As we count them, "these applications" may include as many as five or six or more applications that are quite closely related, even to some extent are interdependent. We are not entirely certain which applications you want withdrawn, or even which ones Birch Creek Ranches can legally withdraw.

We will list the applications of which we are aware and ask you to consider what should be done with respect to each:

1. Application for Permit No. 32-7128 for 45cfs of the flow of Birch Creek for power generation purposes was filed September 8, 1982, and was approved with conditions pursuant to an "Order Adopting Modified Memorandum Decision and Order" and "Modified Memorandum Decision and Order" dated March 27, 1985. The decision was appealed to the district court and was affirmed in a "Memorandum Decision", dated June 26, 1986.

2. Application for Permit No. 32-7136 for 30cfs of the flow of Birch Creek for power generation purposes was filed January 3, 1984. It appears to have been consolidated with Application for Permit No. 32-7128 for processing and was approved by the same order and the order was affirmed in the same district court decision mentioned above.

3. Applications for amendment of both permits appear to have been filed on August 8, 1986, to change the location of the penstock in power plant. Both appear to have been approved by the director on August 15, 1986.

4. A field examination appears to have been completed for both permits by Cecil A. Thomas in 1988 and a Beneficial Use Field Report to have been submitted about February 11, 1989.

5. On April 19, 1989, Birch Creek Ranches, Inc. filed its application to transfer some 18.6cfs of water rights appurtenant to the Simmons lands above Blue Dome down to D & D lands, and to change the point of diversion for such rights downstream to the new Reno Diversion. The application was protested and a hearing was held in April of 1990.

6. On April 30 of 1990, Ted S. Sorenson filed an application for amendment of permits Nos. 32-7128 and 32-7136 seeking removal or modification of the bypass flow conditions. As we understand it, Mr. Spackman later consolidated this proceeding with the transfer proceedings.

7. Pursuant to an agreement between Wagners and Birch Creek Ranches, Wagners filed an application to transfer 6.0cfs of their water rights to D & D lands about January 21, 1991.

8. Also, pursuant to the same agreement, Birch Creek Ranches, Inc. filed two amended applications for transfer about February 12, 1991. The first proposes a transfer of 4.0cfs of Simmons rights to Wagner's lands, and the second proposes a transfer of 17.5cfs of Woodie and Simmons water rights to D & D lands.

9. About April 22, 1994, Wagners filed an amended application to transfer 6.0cfs of Wagner rights upstream to Simmons lands, rather than downstream to D & D lands.

10. About May 17, 1994, Ted S. Sorenson filed an application to transfer the saved or salvaged water rights from the hydropower project for stream channel losses in Birch Creek from the Simmons diversions downstream to the New Reno Diversion.

So, it appears to us, that there are several pending applications, all of which are very much related, and, to one extent or another, even dependant upon one another. Birch Creek Ranches or Ted S. Sorenson probably has the power to withdraw some, but not all. Which do think need to be withdrawn, and if you are not asking that all be withdrawn, what should be done about the remaining ones, including any that our clients cannot legally withdraw? Does it make more sense procedurally and economically to proceed with any that might not be withdrawn at this time, or to wait until the entire package is again available for disposition?

By the way, when we last spoke, I believe I misinformed you. As I recall, you asked me if the Simmons lands are in CRP programs and I thought only the Gray Place (the land retained by Simmons) was. Because of my uncertainty, I inquired further, and have been advised that indeed all the land acquired by Birch Creek Ranches from Simmons is in CRP status as well.

We will look forward to hearing further from you when it is convenient.

Very truly yours,

Kent W. Foster

G:\WPDATA\SANDRA\00TED01.LTR:sjw

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

BLANCHE WAGONER
STAR ROUTE
LEADORE ID 83464

4a. Article Number

1210

4b. Service Type

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

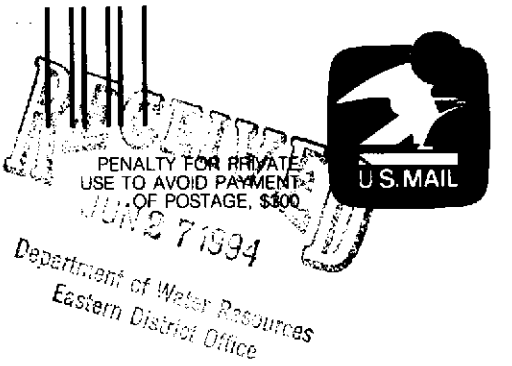
6. Signature (Agent) Blanche Wagoner

PS Form **3811**, December 1991 ☆ U.S.G.P.O.: 1992-307-530 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business




Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

TED SORENSON
950 LINDEN
IDAHO FALLS ID 83401

4a. Article Number

1211

4b. Service Type

☐ Registered ☐ Insured
XX Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

6-24-94

5. Signature (Addressee)

6. Signature (Agent)

Marcia J. Monnaseff

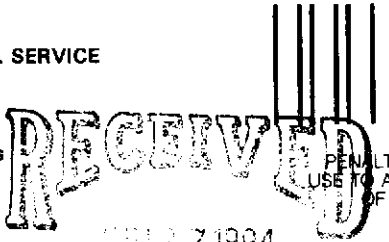
SOR552 0119 TEY 03 1 06/22/94
*** PLEASE NOTIFY SENDER OF NEW ADDRESS ***
SORENSON ENGINEERING
5203 S 11TH EAST
IDAHO FALLS ID 83404

PS Form **3811**, December 1991 ☆ U.S.G.P.

u for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business




PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300




Department of Water Resources
Eastern District Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- [redacted]lete items 1 and/or 2 for additional services.
- [redacted]plete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

BRECK H. BARTON
PO BOX 100
REXBURG ID 83440

4a. Article Number

1212

4b. Service Type

☐ Registered ☐ Insured
XX
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

6-22-94

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. [redacted]nature (Agent)

[redacted] Bonnie Bowen

PS Form **3811**, December 1991 ☆ U.S.G.P.O.: 1992-307-530 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

U.S. MAIL

RECEIVED
JUN 23 1994
Department of Water Resources
Eastern District Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- [redacted]ete items 1 and/or 2 for additional services.
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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

GEORGE PETERSON
485 E STREET
IDAHO FALLS ID 83402

4a. Article Number

1213

4b. Service Type

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

6/22/91

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. [redacted]nature (Agent)

PS Form **3811**, December 1991 ☆ U.S.G.P.O. : 1992-307-530 **DOMESTIC RETURN RECEIPT**

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UNITED STATES POSTAL SERVICE

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Department of Water Resources
Eastern District Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

Is your RETURN ADDRESS completed on the reverse side?

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

KENT FOSTER
BIRCH CREEK RANCHES
PO BOX 50130
IDAHO FALLS ID 83405

4a. Article Number

1214

4b. Service Type

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

JUN 22 1994

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

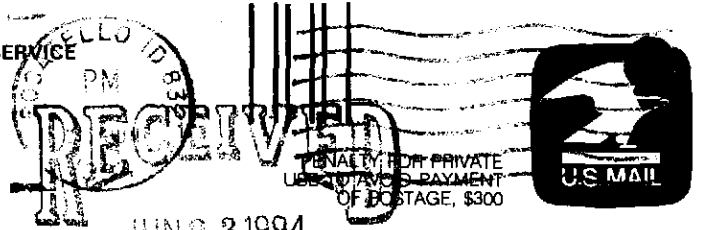
6. Signature (Agent)

PS Form **3811**, December 1991 ☆ U.S.G.P.O. : 1992-307-530 **DOMESTIC RETURN RECEIPT**

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Department of Water Resources
Eastern District Office

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

Is your RETURN ADDRESS completed on the reverse side?

**[redacted]NDER:**

- [redacted]mplete items 1 and/or 2 for additional services.
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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

JOHN D. HANSEN
PO BOX 51718
IDAHO FALLS ID 83405

4a. Article Number

1215

4b. Service Type

☐ Registered ☐ Insured
XX Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

JUN 22 1994

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. [redacted]Signature (Agent)

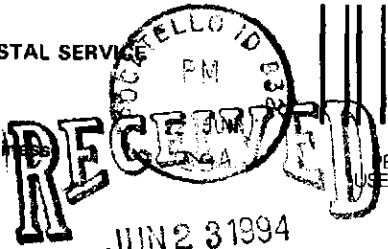
Misty Freeman

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Department of Water Resources
Eastern District Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

Is your RETURN ADDRESS completed on the reverse side?

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

JIM DEMORDAUNT
PO BOX 5
REXBURG ID 83440

4a. Article Number

1216

4b. Service Type

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

6-22-94

5. Signature (Addressee)

Jim DeMordaunt

6. [redacted]gnature (Agent)

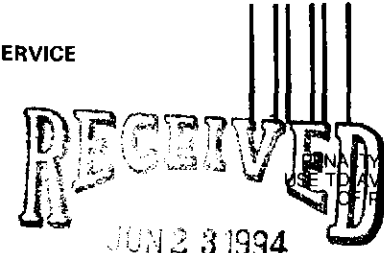
8. Addressee's Address (Only if requested and fee is paid)

PS Form **3811**, December 1991 ☆ U.S.G.P.O. : 1992-307-530 **DOMESTIC RETURN RECEIPT**

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Department of Water Resources
Eastern District Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

H. MARGERY BARE
PO BOX 72
DUBOIS ID 83423

4a. Article Number

1219

4b. Service Type

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

6-24-94

5. Signature (Addressee)

Margery Bare

8. Addressee's Address (Only if requested and fee is paid)

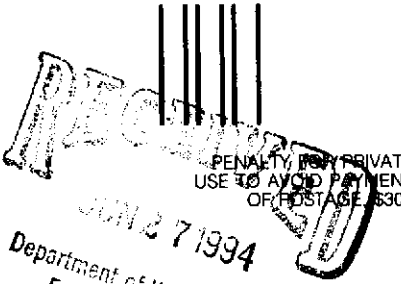
6. Signature (Agent)

PS Form **3811**, December 1991 ☆ U.S.G.P.O.: 1992-307-530 **DOMESTIC RETURN RECEIPT**

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Official Business




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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- [redacted]plete items 1 and/or 2 for additional services.
- [redacted]plete items 3, and 4a & b.
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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MAC & BETTY WAGONER
PO BOX 296
DUBOIS ID 83423

4a. Article Number

1218

4b. Service Type

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

6-22-94

5. Signature (Addressee)

Betty Wagoner

8. Addressee's Address (Only if requested and fee is paid)

6. [redacted]nature (Agent)

PS Form **3811**, December 1991 ☆ U.S.G.P.O.: 1992-307-530 **DOMESTIC RETURN RECEIPT**

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JUN 2 3 1994
Department of Water Resources
Eastern District Office

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

s your RETURN ADDRESS completed on the reverse side?

**S[illegible]DER:**

- [illegible]plete items 1 and/or 2 for additional services.
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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

ALAN E BARBER
PO BOX 51718
IDAHO FALLS ID 83405

4a. Article Number

1219

4b. Service Type

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

JUN 22 1994

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. [illegible]gnature (Agent)

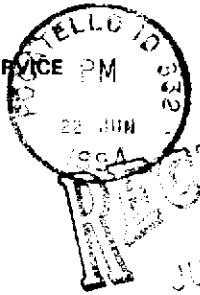
Misty Freeman

PS Form **3811**, December 1991 ☆ U.S.G.P.O. : 1992-307-530 **DOMESTIC RETURN RECEIPT**

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UNITED STATES POSTAL SERVICE

Official Business




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U.S. MAIL

JUN 23 1994

Department of Water Resources
Eastern District Office

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
900 N. SKYLINE DR.
IDAHO FALLS, IDAHO 83402

AME AND DDRESS E SENDER

Indicate type of mail
☐ Registered ☐ Return Receipt For Merchandise
☐ Insured
☐ COD
☒ Certified ☐ Express Mail

Check appropriate block for Registered Mail:
☐ With Postal Insurance
☐ Without Postal Insurance

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

*POSTMARK AND DATE OF RECEIPT*

| ne | Number of Article | Name of Addressee, Street, and Post-Office Address | Postage | Fee | Handling Charge | Act. Value (If Regis.) | Insured Value | Due Sender If C.O.D. | R. R. Fee | S. D. Fee | S. H. Fee | Rest. Del. Fee / Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 1210 | Blanche Wagoner St. Rt. Leadore ID 83464 | .29 | 1.00 | | | | | 1.00 | | | Birch Creek Ranches |
| 2 | 1211 | Ted Sorenson 950 Linden Idaho Falls 83401 | | | | | | | | | | Hearing |
| 3 | 1212 | Breck Barton PO Box 100 Rexburg 83440 | | | | | | | | | | |
| 4 | 1213 | George Peterson 485 E St. Idaho Falls 83402 | | | | | | | | | | |
| 5 | 1214 | Kent Foster P.O. Box 50130 Idaho Falls 83405 | | | | | | | | | | |
| 6 | 1215 | John D. Hansen P.O. Box 51718. Idaho Falls 83405 | | | | | | | | | | |
| 7 | 1216 | Jim Demordaunt P.O. Box 5 Rexburg 83440 | | | | | | | | | | |
| 8 | 1217 | H. Margery Bare P.O. Box 72 Dubois 83423 | | | | | | | | | | |
| 9 | 1218 | Mac & Betty Wagoner P.O. Box 296 Dubois 83423 | | | | $22.90 | | | | | | |
| 0 | 1219 | Idaho Falls, 83405 Alan E Barber P.O Box 51718 | | | | | | | | | | |
| 1 | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | |

U.S.P.O. EAGLE ROCK ANNEX NOV 21 1994 IDAHO USPS

| tal number of Pieces ted by Sender | Total Number of Pieces Received at Post-Office | POSTMASTER, PER *(Name of receiving employee)* |
|---|---|---|
| Ten | Ten | |

The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for nonnegotiable documents under Express Mail document reconstruction insurance is $50,000 per piece subject to a limit of $500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is $500. The maximum indemnity payable is $25,000 for Registered Mail, $500 for COD and $500 for Insured Mail. Special handling charges apply only to Third- and Fourth-Class parcels.

**FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN**

U.S. GOVERNMENT PRINTING OFFICE: 1994-554-309

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE**

**STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR TRANSFER NO.'S 3553 & 3828 IN THE NAME OF BIRCH CREEK RANCHES

**NOTICE OF HEARING**

On April 20, 1989, Birch Creek Ranches, Inc. filed with the Department of Water Resources application for transfer no. 3553,. The application was protested by Alan E. Barber, Esq., of Hansen, Beard, Martin & St. Clair, on behalf of his client H. Margery Bare; Breck Barton of Breck Barton & Associates, on behalf of his clients Mac and Betty Wagoner; and Blanche Wagoner. A notice of conference was held on June 22, 1989.

On February 12, 1991, Birch Creek Ranches, Inc. filed with the Department of Water Resources an amended application for transfer no. 3828. The application was protested by George C. Petersen, Jr., Esq. of Petersen, Moss, Olsen, Meacham & Corps, on behalf of his clients D & D Enterprises, Inc.

The Department has scheduled the matter for hearing on July 14, 1994, at 9:00 a.m., to be held at the Department of Water Resources, 900 N. Skyline, Idaho Falls, ID. The hearing will be held in accordance with the provisions of the Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the Department and Water Appropriation Rules 40 and 45. A copy of the

rules may be obtained from the Department upon request.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the Department within ten (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 21st day of June, 1994.

Regional Supervisor

I hereby certify that on the 21st day of June, 1994, I mailed a true and correct copy, postage prepaid, of this document to the applicants(s) and protestant(s) listed below:

Rita Bodell
Secretary

Certified Mail

ALAN E BARBER
PO BOX 51718
IDAHO FALLS ID 83405

MAC & BETTY WAGONER
PO BOX 296
DUBOIS ID 83423

H MARGERY BARE
PO BOX 72
DUBOIS ID 83423

JIM DEMORDAUNT
PO BOX 5
REXBURG ID 83440

JOHN D HANSEN
PO BOX 51718
IDAHO FALLS ID 83405

KENT FOSTER
BIRCH CREEK RANCHES
PO BOX 50130
IDAHO FALLS ID 83405

GEORGE PETERSON
485 E STREET
IDAHO FALLS ID 83402

BRECK H BARTON
PO BOX 100
REXBURG ID 83440

TED SORENSON
550 LINDEN
IDAHO FALLS ID 83401

BLANCHE WAGONER
STAR ROUTE
LEADORE ID 83464

June 10, 1994

Mr. Kent Foster
HOLDEN KIDWELL HAHN & CRAPO
P.O. Box 50130
West One Bank Building
Idaho Falls, ID 83405

Re: Birch Creek Ranches transfer hearing

Dear Kent:

I understand, from our recent conversation, that Gary Spackman contacted you and tentatively set July 14 as the date for the department to hear protests against the approval of applications for transfer filed by Birch Creek Ranches Inc. As you know the protestants have asked that these applications be set aside because D & D Inc. is no longer interested in leasing these water rights.

However, the director wishes to see this matter resolved. Therefore, unless you agree with the protestants that these applications should be withdrawn, we intend to proceed with the hearing. If I do not hear from you by June 24 I will assume that your client wishes to proceed with the proposed change and that July 14 and 15 will be acceptable dates for the hearing.

Very truly yours,

Ronald D. Carlson
Regional Manager

GROVER LAW OFFICE
CHARTERED
102 NORTH CLARK
P. O. BOX 36
RIGBY, IDAHO 83442-0036
PHONE (208) 745-6653
FAX (208) 745-6655

BLAIR GROVER

R. JAMES ARCHIBALD
ASSOCIATE

June 3, 1994

RECEIVED
JUN 8 1994
Department of Water Resources
Eastern District Office

Mr. Ron Carlson
Dept. of Water Resources
900 North Skyline Dr.
Idaho Falls, ID 83402

Re: Birch Creek Ranch Applications for Transfer

Dear Ron:

I have received a copy of the letter from George Peterson to you directed May 26, 1994. I endorse his comments on behalf of LaVar Newman. There is little point in forcing all the parties through a hearing for a transfer that a proposed place of use is no longer available. Both the pending application, and the one recently filed should therefore be canceled.

May we please hear from you with regard to the Department's position.

Yours very truly,

GROVER LAW OFFICE, Chtd.

BLAIR GROVER

BG:cj
cc: LaVar Newman
Kent Foster
Breck Barton
George Peterson

GEORGE C. PETERSEN, JR.
REED L. MOSS
WM. CHARLES CARR
SCOTT P. ESKELSON
STEPHEN D. HALL

PETERSEN, MOSS, OLSEN, CARR,
ESKELSON & HALL
Attorneys at Law
485 "E" Street
Idaho Falls, Idaho 83402
(208) 523-4650

DENNIS M. OLSEN
(1930-1985)

FAX NO.
(208) 524-3391

May 26, 1994

RECEIVED
MAY 26 1994
Department of Water Resources
Eastern District Office

Mr. Ron Carlson
Dept. of Water Resources
900 North Skyline Drive
Idaho Falls, ID 83402

RE: Status and Request to Cancel Pending Application to Transfer Birch Creek Ranches, Inc.'s Water Rights (32-0069, 32-0092, 32-0061C, 32-0091, 32-0089, 32-0067, 32-0090, 32-0093, 32-0068) from Real Property to which said Birch Creek Waters are Currently Dedicated to Real Properties, Substantially Downstream, Owned by D&D Enterprises, Inc.

Dear Mr. Carlson:

In response to your request for a letter, this writing is directed to yourself as the water master and the Department of Water Resources, on behalf of the management of D&D Enterprises, Inc., for the purpose of resolving the status of the above captioned.

As you recall, a letter was sent out on October 1, 1993, under your signature, advising the water users of Birch Creek that there would not be a renewal of the interim order for delivery of Birch Creek waters for the irrigation season of 1994.

D&D, in response to said letter and the uncertainty of future availability of Birch Creek Ranches' water, as a lessee, decided not to renew its lease to lease exclusively the Birch Creek waters for year 1994, previously leased by a series of one year leases with Birch Creek, lessor.

It would appear to the writer, where there is no longer a lease in existence as between Birch Creek Ranches and D&D Enterprises, Inc., to support the application for transfer of waters from the acreage to which it is currently dedicated to D&D Enterprises, Inc.'s real property, and D&D is no longer willing to accept and/or make available its deeded lands for said proposed transfer, that said transfer the subject of the above captioned, is moot, in that there is currently no longer in existence qualifying acreages for which said proposed transfer of water can be applied to a beneficial use.

In view of the above, it is a suggestion of the writer, on behalf of our client, that the pending hearings on the above captioned transfer be cancelled, and further that the application, the subject thereof be cancelled.

May I hear from you at your earliest convenience regarding the above.

Thanking you in advance for your cooperation. Best regards.

Very truly yours,

PETERSEN, MOSS, OLSEN,
CARR, ESKELSON & HALL

George C. Petersen, Jr.

GCP/jih
cc: Blair Grover, Esq.
Kent Foster, Esq.
Breck Barton, Esq.
Gary Spackman, Dept. of Water Resources

\..\D&D\WatResou.ltr

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 28, 1994

Mr. Kent Foster, Esq.
Holden, Kidwell, Hahn & Crapo
West One Bank
P.O. Box 50130
330 Shoup Avenue
Idaho Falls, Idaho 83405

Mr. Breck Barton, Esq.
Barton & Associates
P.O. Box 100
Rexburg, Idaho 83440

Mr. George Petersen, Esq.
Petersen, Moss, Olsen,
Meachan & Carr
485 "E" Street
Idaho Falls, Idaho

Mr. Blair Grover, Esq.
Grover & Walker, Chtd.
P.O. Box 36
Rigby, Idaho 83442

Dear Gentlemen:

On November 29, 1993, the department received a letter from Breck Barton, requesting that the application for transfer filed by his clients, Mac and Betty Wagoner, be bifurcated from applications for transfer filed by Birch Creek Ranches, Inc. All of the applications were originally protested, substantially by the same parties. In addition, the applications raised similar issues of fact and law. The letter was accompanied by conditional withdrawals of protest executed by LaVar Newman and D & D Ranches. The conditions will be discussed later in this letter.

Almost simultaneous with receipt of the letter from Breck Barton, the department received a letter from Kent Foster (Birch Creek Ranches), reviewing the history of the filings, and requesting a hearing. In addition, Birch Creek Ranches filed another application for transfer (or application for amendment) of a permit to appropriate water, seeking to divert 5 cfs which was originally dedicated for maintenance of riparian growth in the Birch Creek channel below the power canal diversion.

I reviewed all of the files, and the history of the filings. I do not want to restate all of the history, but feel it is important to note that after the hearing regarding the original application for transfer, Wagoners and Birch Creek Ranches agreed to attempt to exchange water rights. Birch Creek Ranches agreed to transfer 4 cfs of the earliest water right from the Simmons ranch, which Birch Creek Ranches had acquired, to Wagoners' property, in exchange for a transfer by Wagoners of their water rights to 960 acres irrigated downstream from the Birch Creek Ranches power plant. As a result, Birch Creek Ranches withdrew the first application for transfer. Three additional applications for

transfer. (1) An application by Wagoners proposing to move their water rights to the 960 acres: (2) An application by Birch Creek Ranches seeking to transfer 4 cfs to the Wagoner property, and; (3) an application by Birch Creek Ranches proposing to move the remainder of the water rights from the Simmons property to the 960 acres. These are the applications which were most recently protested, and are now pending.

The withdrawals of protest, filed by Breck Barton, would not permit approval of the transfers now pending before the department. As an illustration, the withdrawal of objection signed by D & D Ranches states that D & D does not object to "granting to Birch Creek Ranches, Inc., the . . . water rights measured at the current points of diversion held by Birch Creek Ranches, Inc., that is those points of diversion located physically on or adjacent to the Simmons ranch . . .." D & D then specifically reserves any objections to transferring the water to the 960 acres specified in the Wagoner application for transfer and one of the Birch Creek Ranches applications for transfer. As a result, the Department of Resources cannot approve Wagoners' application for transfer because it does not propose a point of diversion or place of use identified in the withdrawals of protest. In fact, the protestants continue to object to a transfer of water to the point of diversion and place of use specified in the Wagoner application for transfer. These objections are substantially identical to objections to Birch Creek Ranches' applications for transfer, and, without some modification in the Wagoner transfer, the department should not bifurcate the proceedings.

If Wagoners want to amend the application for transfer, specifying the Simmons ranch as the point of diversion and place of use, the department will bifurcate the proceedings, and publish notice of the proposed change. If the amended Wagoner application is approved after the publication, Birch Creek Ranches would have to transfer the water from the Simmons property to the 960 acres.

Rather than bifurcate the matter, a quick response to Mr. Foster's request is appropriate. I suggest the date of March 22, 1994, as a hearing date for these protested applications for transfer.

I also propose that the parties determine by February 28, 1994, whether the prior record can be used in the matter. As I recall, the only party who did not previously participate in the hearing is LaVar Newman, represented by Blair Grover. The tapes of the prior hearing were retained by our eastern regional office in Idaho Falls where they can be reviewed. If I have heard not from the parties regarding a stipulation for use of the record by February 28, I will assume that we must fully redevelop the record because the three pending applications are new applications for transfer. As a result, I will schedule two days for the hearing, instead of one, to insure completion.

The latest application for transfer filed by Birch Creek Ranches is not sufficiently similar in fact or in law to warrant waiting to incorporate it into the upcoming hearing on March 22. As a result, the department will publish notice of the new application, and the new application will be considered separately.

Please notify me promptly if the proposed hearing dates conflict with your calendars.

Sincerely,

Gary Spackman

cc: Eastern IDWR office

# 1993

LAW OFFICES OF
BRECK BARTON & ASSOCIATES, P.A.
305 WEST MAIN
REXBURG, IDAHO 83440

BRECK H. BARTON

P.O. BOX 100
(208) 356-4880

November 22, 1993

RECEIVED
NOV 29 1993
Department of Water Resources
Eastern District Office

Ron Carlson
Department of Water Resources
150 Shoup Avenue, Suite 115
Idaho Falls, ID 83402

RE: Birch Creek Ranches, Inc.

Dear Mr. Carlson:

We have been provided with a stipulation withdrawing the objection to the transfer/exchange of water rights between Wagoner Birch Creek Ranches, Inc. as the same pertain to Wagoner's rights. We enclose the originals for your consideration and formally request that the department bifurcate those proceedings now pending; approve the exchange and decree and grant to Wagoner the water rights listed therein measured at their point of diversion. Thank you for your courtesies.

Very truly yours,

Breck Barton

BB/djf

Enclosures

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
NOV 29 1993
Department of Water Resources
Eastern District Office

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER NO. 3553 (WATER RIGHTS NOS. 32-00067, 32-00090, 32-00093, 32-99968, 32-00089, 32-00069, 32-00092, 32-00061C, 32-00091) IN THE NAME OF BIRCH CREEK RANCHES, INC., AND APPLICATION FOR TRANSFER NO. 4166 (WATER RIGHTS NOS. 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, 32-00079) IN THE NAME OF MAC OR BETTY WAGONER, | STIPULATION FOR BIFURCATION OF WATER RIGHT TRANSFER AND WITHDRAWAL OF OBJECTION TO WATER RIGHT TRANSFER |

COMES NOW, Lavar Newman, by and through their counsel of record, Blair Grover and represents as follows:

1. There is currently pending before the Department of Water Resources an application for exchange of water rights between Birch Creek Ranches, Inc., and Mac and Betty Wagoner. Mac and Betty Wagoner propose to exchange water right numbers with Birch Creek Ranches, Inc., water right numbers. The effect of the exchange would be to provide Mac and Betty Wagoner with the oldest decreed rights in Birch Creek in the amount of 4 cfs of flow as measured at their point of diversion.

2. The proposed exchange of water rights described in paragraph 1 is part of a currently pending proceeding before the Department of Idaho Water Resources involving additional proposed transfers of water rights by Birch Creek Ranches, Inc.

3. Lavar Newman has intervened and objected to all proposed transfers, including the proposed exchange of water rights between Wagoner and Birch Creek Ranches, Inc.

4. In an effort to expedite the above proceedings, Lavar Newman agrees that the Department of Water Resources bifurcate the above proceedings, dealing first with the exchange of water rights between Wagoners and Birch Creek Ranches, Inc., and second, with the proposed transfer of water rights by Birch Creek Ranches.

Therefore, Lavar Newman does hereby agree and represent to the Idaho Department of Water Resources as follows:

1. Lavar Newman does not object to the bifurcation of the above proceedings into two parts, with the Idaho Department of Water Resources to first address and determine the proposed exchange of the following water right numbers totaling 6 cfs

| | | |
|---|---|---|
| #A32-0102 | 4.00cfs | priority date 5/10/1889 |
| #A32-00073 | 0.20cfs | priority date 5/15/1909 |
| #A32-00086 | 0.20cfs | priority date 5/01/1911 |
| #A32-00077 | 0.20cfs | priority date 5/15/1910 |
| #A32-00085 | 0.20cfs | priority date 5/10/1910 |
| #A32-00078 | 0.20cfs | priority date 5/15/1911 |
| #A32-00087 | 0.20cfs | priority date 5/01/1912 |
| #A32-00079 | 0.80cfs | priority date 5/15/1913 |

with water right numbers held by Birch Creek Ranches, Inc., and totaling 4 cfs

| | | |
|---|---|---|
| #32-0067 | 3.20cfs | priority date 9/10/1882 |
| Portion of #32-0090 | 0.80cfs | priority date 5/10/1886 |

2. Lavar Newman agrees and requests that their objection to the exchange of the water rights described in paragraph 1 above be withdrawn.

3. Lavar Newman specifically reserves any objections to the transfer of any water rights now held or hereafter acquired by Birch Creek Ranches, Inc., whether the same are held by Birch Creek Ranches, Inc., or are acquired from Mac and Betty Wagoner in this proceeding, and/or otherwise acquired.

DATED this 12 oct day of October, 1993.

LAVAR NEWMAN, PROTESTANT

By La Var Newman

Approved By:

Blair Grover

BLAIR GROVER
Counsel for Lavar Newman

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
NOV 2 9 1993
Department of Water Resource
Eastern District Office

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER NO. 3553 (WATER RIGHTS NOS. 32-00067, 32-00090, 32-00093, 32-99968, 32-00089, 32-00069, 32-00092, 32-00061C, 32-00091) IN THE NAME BIRCH CREEK RANCHES, INC. AND APPLICATION FOR TRANSFER NO. 4166 (WATER RIGHTS NOS. 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, 32-00079) IN THE NAME OF MAC OR BETTY WAGONER, | STIPULATION FOR BIFURCATION OF WATER RIGHT TRANSFER AND WITHDRAWAL OF OBJECTION TO WATER RIGHT TRANSFER |

Comes now D & D Ranches, by and through their counsel of record, George C. Peterson and represents as follows:

1. There is currently pending before the Department of Water Resources an application for exchange of water rights between Birch Creek Ranches, Inc. and Mac and Betty Wagoner. Mac and Betty Wagoner propose to exchange water right numbers with Birch Creek Ranches, Inc. water right numbers. The effect of the exchange would be to provide Mac and Betty Wagoner with the oldest decreed rights in Birch Creek in the amount of 4 cfs of flow as measured at their point of diversion.

2. The proposed exchange of water rights described in Paragraph 1 is part of a currently pending proceeding before the Department of Idaho Water Resources involving additional proposed transfers of water rights by Birch Creek Ranches, Inc.

3. D & D Ranches has intervened and objected to all proposed transfers, including the proposed exchange of water rights between Wagoner and Birch Creek Ranches, Inc.

4. In an effort to expedite the above proceedings, D & D Ranches agrees that the Department of Water Resources bifurcate the above proceedings, dealing first with the exchange of water rights between Wagoners and Birch Creek Ranches, Inc. and second, with the proposed transfer of water rights by Birch Creek Ranches, Inc.. Therefore, D & D Ranches does hereby agree and represent to the Idaho Department of Water Resources as follows:

1. D & D Ranches does not object to the bifurcation of the above proceedings into two parts, with the Idaho Department of Water Resources to first address and determine the proposed exchange of the following water right numbers totaling 6 cfs

| | | |
|---|---|---|
| #A32-0102 | 4.00cfs | priority date 5/10/1889 |
| #A32-00073 | 0.20cfs | priority date 5/15/1909 |
| #A32-00086 | 0.20cfs | priority date 5/01/1911 |
| #A32-00077 | 0.20cfs | priority date 5/15/1910 |
| #A32-00085 | 0.20cfs | priority date 5/10/1910 |
| #A32-00078 | 0.20cfs | priority date 5/15/1911 |
| #A32-00087 | 0.20cfs | priority date 5/01/1912 |
| #A32-00079 | 0.80cfs | priority date 5/15/1913 |

with water right numbers held by Birch Creek Ranches, Inc. and totaling 4 cfs

| | | |
|---|---|---|
| #32-0067 | 3.20cfs | priority date 9/10/1882 |
| Portion of #32-0090 for | 0.80cfs | priority date 5/10/1886 |

2. D & D Ranches agrees and requests that their objection to the exchange of the water rights described in Paragraph 1 above be withdrawn and do further request that the Department issue an order approving said exchange granting to Wagoner the below described

water rights and priorities as measured at Wagoner's point of diversion to-wit:

| | | | |
|---|---|---|---|
| #32-0067 | | 3.20cfs | priority date 9/10/1882 |
| Portion of #32-0090 | for | 0.80cfs | priority date 5/10/1886 |

And granting to Birch Creek Ranches, Inc. the below described water rights measured at the current point or points of diversion held by Birch Creek Ranches, Inc., that is those points of diversion located physically on or adjacent to the Simmons Ranch, to-wit:

| | | |
|---|---|---|
| #A32-0102 | 4.00cfs | priority date 5/10/1889 |
| #A32-00073 | 0.20cfs | priority date 5/15/1909 |
| #A32-00086 | 0.20cfs | priority date 5/01/1911 |
| #A32-00077 | 0.20cfs | priority date 5/15/1910 |
| #A32-00085 | 0.20cfs | priority date 5/10/1910 |
| #A32-00078 | 0.20cfs | priority date 5/15/1911 |
| #A32-00087 | 0.20cfs | priority date 5/01/1912 |
| #A32-00079 | 0.80cfs | priority date 5/15/1913 |

3. D & D Ranches specifically reserve any objections to the transfer of any water rights held by Birch Creek Ranches, Inc., which are to be determined in the second stage of the bifurcated proceedings wherein the Department will address the proposed transfer of water rights by Birch Creek Ranches, Inc., with such reservation of objections applying to any and/or all water rights proposed to be transferred by Brich Creek Ranches, Inc. including but not limited to the extent of the right, its priority, or any issue involved with the desired transfer of said right or rights by Birch Creek Ranches, Inc. whether the same rights are now held by Birch Creek Ranches, Inc. and currently sought to be transferred or whether said rights are acquired from Mac and Betty Wagoner by Birch Creek Ranches, Inc. and then sought to be transferred.

DATED this ____ day of September, 1993.

D & D RANCHES, Protestant

By: Jim D Mordaunt

Approved By: George Peterson

George Peterson
Counsel for D & D Ranches

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22 day of ~~September~~ November, 1993, I mailed a true and correct copy of the foregoing Stipulation for Bifurcation of Water Right Transfer and Withdrawal of Objection to Water Right Transfer to the following individuals at the address listed, postage prepaid thereon:

Kent Foster, Esq., P.O. Box 50130, Idaho Falls, ID 83405
George Peterson, Esq., 485 "E" Street, Idaho Falls, ID 83402
Blair Grover, Esq., P.O. Box 36, Rigby, ID 83442
IDWR, 150 Shoup Avenue, Suite 115, Idaho Falls, ID 83402
Don Shenton, Dubois, ID 83423
Jim D Mordaunt, P.O. Box 5, Rexburg, ID 83440
Ted S. Sorenson, 550 Linden, Idaho Falls, ID 83405
Lewis Newman, Monteview, ID 83435
LaVar Newman, Monteview, ID 83435
Alva Harris, 171 S Emerson, Shelley, ID 83274
Steve Phillips, Box 15, Dubois, ID 83423

Breck Barton

# 1992

CERTIFICATE OF MAILING

I hereby certify that on the 13th day of July, 1992, I mailed a true and correct copy of the attached letter, to the following individuals:

Breck Barton
P.O. Box 100
Rexburg, ID 83440

Alva Harris
171 S. Emerson
Shelley, ID 83274

George Peterson
485 "E" Street
Idaho Falls, ID 83402

Kent Foster
P.O. Box 50130
Idaho Falls, ID 83405

Mac and Betty Wagoner
P.O. Box 296
Dubois, ID 83423

Don Shenton
Dubois, ID 83423

Blair Grover
P.O. Box 36
Rigby, ID 83442-0036

IDWR - Eastern Region

Jennifer Seifert

JENNIFER SEIFERT, Secretary
Department of Water Resources

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

RECEIVED
JUL 14 1992
Department of Water Resources
Eastern District Office

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 10, 1992

RE: Transfers filed by Birch Creek Ranches and Mac and Betty Wagoner; Application for Amendment by Birch Creek Ranches - Nos. 32-00061, 32-00067, 32-00068, 32-00069, 32-00089, 32-00090, 32-00091, 32-00092, 32-00093, 32-00102

Dear Interested Party:

I spoke to George Peterson, who represents D & D Enterprises in the above disputed matters. Mr. Peterson stated that he had visited with Blair Grover, attorney for Newman, and Kent Foster, attorney for Sorenson. He stated that because of the uncertainty about the existing condition of Birch Creek because of the liner failure, some additional delay in the hearing would be helpful.

I told Mr. Peterson that I am willing to delay the hearing until there is some physical certainty about the delivery of water in Birch Creek. I do not intend to let these applications go unaddressed for years in the files of the Department, however.

I will defer setting the hearing for an additional six (6) months. On or about January 1, 1993, I will again call it up for review. If there is any change in the status prior to that time, I would appreciate being informed.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

CERTIFICATE OF MAILING

I hereby certify that on the 25th day of June, 1992, I mailed a true and correct copy of the attached letter, postage prepaid, to the following individuals:

Breck Barton
P.O. Box 100
Rexburg, ID 83440

Alva Harris
171 S. Emerson
Shelley, ID 83274

George Peterson
485 "E" Street
Idaho Falls, ID 83402

Kent Foster
Attorney at Law
P.O. Box 50130
Idaho Falls, ID 83405

Mac and Betty Wagoner
P.O. Box 296
Dubois, ID 83423

Don Shenton
Dubois, ID 83423

Blair Grover
P.O. Box 36
Rigby, ID 83442-0036

JENNIFER SEIFERT, Secretary
Department of Water Resources

RECEIVED
JUN 29 1992
Department of Water Resources
Eastern District Office

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 25, 1992

<address>

RE: Transfers filed by Birch Creek Ranches and Mac and Betty & Wagoner; Application for Amendment by Birch Creek Ranches

Dear <sal>:

Parties to the above protested applications for transfer and amendment have been negotiating a possible settlement of the applications for transfer and application for amendment. I have not heard of any agreement. I recall seeing a letter, signed by Breck Barton, which set a deadline for completion of certain activity, although I cannot find it in my files.

This letter is an inquiry about the status of the negotiations, and the desires of the parties regarding a hearing. I do not want this matter to languish in the files of the Department forever without resolution.

I will set this matter for hearing at the end of thirty (30) days. If you are unavailable during certain time periods, I suggest you contact me prior to the end of the thirty days. If the protests are resolvable in some other way, I would appreciate being informed.

Respectfully,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc: Eastern Region

# 1991

State of Idaho
DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

July 10, 1991

RE: Application for Transfer No. 32-0061C BIRCH CREEK RANCHES

Mr. Alva A. Harris
Attorney at Law
PO Box 479
Shelley, ID 83274

Dear Mr. Harris:

This letter acknowledges receipt of the withdrawal of protest, in behalf of Janice M. Judy, against the above referenced application.

If you have any questions, please feel free to contact this office.

Very truly yours,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

pc: Janice M. Judy

State of Idaho
DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

July 10, 1991

RE: Application for Transfer No. 32-0061C BIRCH CREEK RANCHES

Mr. Kent Foster
Attorney at Law
P.O. Box 50030
Idaho Falls, ID 83405

Dear Mr. Foster:

This letter is to advise you that the protest filed by Janice M. Judy against approval of the above referenced application has been withdrawn.

If you have any questions, please feel free to contact this office.

Very truly yours,

HAROLD W. JONES
Water Right Supervisor

HWJ:CW

Alva A. Harris
Attorney at Law
P.O. Box 479
Shelley, Idaho 83274

Re Matter of Application for Transfer No. 32-0061c etc.--Protest of Janice M. Judy

Department of Water Resources

Gentlemen:

On July 8, 1991 I attented a Hearing in Idaho Falls with Mrs. Judy. At that time and on her request I entered the matter and then formally notified the Board that Mrs. Judy was withdrawing her protest. She could see no adverse effects to her from granting this transfer.

Sincerely,

Alva A. Harris
Attorney at Law

CONFERENCE

BIRCH POWER

| ATTY | REPRESENTING |
|---|---|
| Kent Foster | BIRCH POWER |
| GEORGE PETERSON | D & D |
| BLAIR GROUER | LAUAR NEWMAN |
| ALVA Harris | Janice Judy |

REPRESENTING THEMSELVES

DON SHENTON

MAC & BETTY WAGONER

JANICE JUDY

Jeff Judy

Burtenshaw

Foster -

18.6 cfs of Simmons rights were to be transferred to D & D.

Hearing held -

interim administration order

Resolution between Sorensen and Wagoner 18.6 - 23.5 to Birch creek

3.2 + .8 of Simmons to wagoner

23.5 Birch creek rights

additional water from 18.6.

GROUER -

Wilding interests Purchased by Newman.

99% confident they would accept old record. Would like to review

record & exhibits.

Grover – One of major issues is transmission losses.

Don Sharp said there are some licensed rights that should be included There are 3 rights Birch Creek ranches

32-00091 → Pass Creek or Birch Creek

George Woodie – has the right been forfeited this right

Miller Spring creek – is this a separate and distinct right.

D&D – want to clarify whether they are intervenors or Protestants.

Gary – indicated D&D is a Protestant.

1. Birch creek Ranches application does not specify a bed loss

Sorensen argued bed loss should be incremental rather than a percentage loss

2. Question whether all of rights the applicant is seeking to transfer are good

In last hearing Barnett represented Wagoner. D&D is now protesting Wagoners app.

7/12 5/12 split is historic between D+D & Newman

Brock Barton - issue raised by Peterson can be easily changed. Wagaman is not seeking to transfer but rather to exchange of rights. Agreement is to swap water rights

Foster - Birch creek rancho does not have a conflict with wagaman

Alva Harris - Want to withdraw withdrawal of protest from joint July.

Brock Barton - Parties appear to be willing to stipulate resolution of Wagaman - Sorensen Exchange.

Gary - all issues on transfers will be considered by dept as transfers.

1. we will get files here

How long do parties want to review record?

Gary said he will go through the record himself.

Blair - Share costs of transcription?
Blair would like 6 weeks
Someone would like it to be
Completed.

Scudder
Tapes will be reviewed. Record
will be made available.
45 days Is record usable or not
usable? Stipulation to acceptability
of record.
Tentative hearing date.
November for Hearing.

Kent - Question does the dept see
any issues that have not been
resolved. - ex Public trust for SCFS
Simmons previous transfer. (Groups)

Applied for amendment of 5 cfs conditional
Application has been protested and
should be pulled in.
Kent believes some of these issues
were resolved by previous transfer.
Is there a issue of enlargement
Gary will set out issues that
IDWR sees.

T 32-0061C/etc. & 32-0067/etc. - BIRCH CREEK RANCHES
T 32-0102/etc. - MAC OR BETTY WAGONER
**COMBINED**

Monday, July 8, 1991 - 9:30 a.m.
Civil Defense Conference Room, Bonneville County Courthouse
605 N. Capital, Idaho Falls, ID

Hearing Officer: GARY SPACKMAN

| Name | Representing | Address |
|---|---|---|
| Kent W. Foster | Birch Creek Ranches Inc. | Idaho Falls |
| Ted S. Sorenson | Birch Creek Ranches Inc. | Idaho Falls |
| [illegible] | D & D Enterprises Inc. | I.F. |
| Blair [illegible] | LaNar Newman | Box 36 Rigby, Idaho. |
| [illegible] | 3586 W Edwards | Idaho Falls |
| [illegible] | 275 Jennette Cir | Idaho Falls |
| [illegible] | 1235 N. 55 E | Idaho Falls |
| Donald W. Shenton | Box 33 Dubois Ida. | 83423 |
| Mac Wagner | Water User | No Dot-290 Dubois Idaho 83423 |
| Brian Boynton | Wagner | PO Box 100 Rexburg |
| [illegible] | Janice Judy | POBox 429 Shelley Id 83274 |

BLAIR GROVER
Attorney at Law
Chartered
P.O. Box 36
Rigby, Idaho 83442-0036
(208) 745-6653

RECEIVED
JUL 3 - 1991
Department of Water Resources
Eastern District Office

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF THE APPLICATION FOR TRANSFER NO. 32-0061C/ETC. AND 32-0067/0090 IN THE NAME OF BIRCH CREEK RANCHES AND NO. 32-0102/ETC. IN THE NAME OF MAC OR BETTY WAGONER | MOTION TO CONTINUE HEARING DATE AND FOR PRETRIAL CONFERENCE |

COMES NOW the Protestants, Lavar Newman and Louise J. Newman, his wife, by and through his undersigned attorney of record, and moves the Department of Water Resources to continue the hearing date in the above-entitled matter for the following reasons:

1. Protestant has not had sufficient time to discuss with or employ an expert witness.

2. There has been a previous hearing and extensive testimony involving basically the same issues as are presented by these petitions. A determination needs to be made as to the position of the parties, and the Department of Water Resources, with regard to use of the evidence in that hearing.

3. The scheduled hearing may well be reduced in length and scope if the issues are narrowed.

It is the understanding of the undersigned that the other parties are not prepared to proceed with the hearing, and therefore, also seek a continuance.

4. Rather than hold a hearing in the above-entitled matter, it is hereby requested that a Pretrial Conference be held to resolve the matters raised herein, and others that may be brought up by the parties or the Department of Water Resources, at the time and place scheduled for the hearing.

DATED this 2nd day of July, 1991.

BLAIR GROVER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, resident of an with my office in Rigby, Idaho; that I served a copy of the foregoing document or pleading on the attorney listed below by hand delivering, by facsimile transmission (Fax), or by mailing with the correct postage thereon, a true and correct copy thereof this 2nd day of July, 1991.

Attorneys Served: George C. Petersen, Jr., Esq. (MAIL)
PETERSEN, MOSS, OLSEN, MEACHAM & CARR
484 "E" Street
Idaho Falls, ID 83402

Kent W. Foster, Esq. (MAIL)
HOLDEN, KIDWELL, HAHN & CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

BLAIR GROVER

July 3, 1991

Jerry Rigby
P.O. Box 250
Rexburg, ID 83440

Dear Mr. Rigby:

After discussing the hearing scheduled for July 8, 1991 with several of the parties, it appears that there are unresolved issues regarding the scope of proof, as well as confusion about whether the scheduled meeting will be a hearing or a prehearing conference. Although the notice clearly stated that a hearing would be conducted on Monday, July 8, issues of proof and questions regarding the scope of the Department's review must be addressed prior to the hearing.

As a result the hearing scheduled for July 8 will be a prehearing conference. The parties should come ready to discuss and identify issues of law, including the issue of what facts the Department should hear de novo. The parties should also be prepared to discuss issues of fact, and stipulate to undisputed facts. Possible witnesses, including experts should be identified. Consolidation of witnesses and testimony, will be discussed. A future hearing date will be identified.

Sincerely,

Harold W. Jones

HWJ:lk

July 3, 1991

Breck Barton
P.O. Box 100
Rexburg, ID 83440

Dear Mr. Barton:

After discussing the hearing scheduled for July 8, 1991 with several of the parties, it appears that there are unresolved issues regarding the scope of proof, as well as confusion about whether the scheduled meeting will be a hearing or a prehearing conference. Although the notice clearly stated that a hearing would be conducted on Monday, July 8, issues of proof and questions regarding the scope of the Department's review must be addressed prior to the hearing.

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Sincerely,

Harold W. Jones

HWJ:lk

July 3, 1991

Mac and Betty Wagoner
P.O. Box 296
Dubois, ID 83423

Dear Mr. and Mrs. Wagoner:

After discussing the hearing scheduled for July 8, 1991 with several of the parties, it appears that there are unresolved issues regarding the scope of proof, as well as confusion about whether the scheduled meeting will be a hearing or a prehearing conference. Although the notice clearly stated that a hearing would be conducted on Monday, July 8, issues of proof and questions regarding the scope of the Department's review must be addressed prior to the hearing.

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Sincerely,

Harold W. Jones

HWJ:lk

July 3, 1991

Kent Foster
P.O. Box 50130
Idaho Falls, ID 83402

Dear Mr. Foster:

After discussing the hearing scheduled for July 8, 1991 with several of the parties, it appears that there are unresolved issues regarding the scope of proof, as well as confusion about whether the scheduled meeting will be a hearing or a prehearing conference. Although the notice clearly stated that a hearing would be conducted on Monday, July 8, issues of proof and questions regarding the scope of the Department's review must be addressed prior to the hearing.

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Sincerely,

Harold W. Jones

HWJ:lk

July 3, 1991

George Petersen
485 E. Street
Idaho Falls, ID 83402

Dear Mr. Petersen:

After discussing the hearing scheduled for July 8, 1991 with several of the parties, it appears that there are unresolved issues regarding the scope of proof, as well as confusion about whether the scheduled meeting will be a hearing or a prehearing conference. Although the notice clearly stated that a hearing would be conducted on Monday, July 8, issues of proof and questions regarding the scope of the Department's review must be addressed prior to the hearing.

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Sincerely,

Harold W. Jones

HWJ:lk

July 3, 1991

Janice M. Judy
3580 W. Elswood
Idaho Falls, ID 83402

Dear Ms. Judy:

After discussing the hearing scheduled for July 8, 1991 with several of the parties, it appears that there are unresolved issues regarding the scope of proof, as well as confusion about whether the scheduled meeting will be a hearing or a prehearing conference. Although the notice clearly stated that a hearing would be conducted on Monday, July 8, issues of proof and questions regarding the scope of the Department's review must be addressed prior to the hearing.

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Sincerely,

Harold W. Jones

HWJ:lk

July 3, 1991

Ted Sorensen
550 Linden Dr.
Idaho Falls, ID 83402

Dear Mr. Sorensen:

After discussing the hearing scheduled for July 8, 1991 with several of the parties, it appears that there are unresolved issues regarding the scope of proof, as well as confusion about whether the scheduled meeting will be a hearing or a prehearing conference. Although the notice clearly stated that a hearing would be conducted on Monday, July 8, issues of proof and questions regarding the scope of the Department's review must be addressed prior to the hearing.

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Sincerely,

Harold W. Jones

HWJ:lk

July 3, 1991

Blair Grover
P.O. Box 36
Rigby, ID 83442

Dear Mr. Grover:

After discussing the hearing scheduled for July 8, 1991 with several of the parties, it appears that there are unresolved issues regarding the scope of proof, as well as confusion about whether the scheduled meeting will be a hearing or a prehearing conference. Although the notice clearly stated that a hearing would be conducted on Monday, July 8, issues of proof and questions regarding the scope of the Department's review must be addressed prior to the hearing.

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Sincerely,

Harold W. Jones

HWJ:lk

State of Idaho
DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

June 24, 1991

ATTN: Lisa
Civil Defense Office
Bonneville County Courthouse
605 N. Capital
Idaho Falls, ID 83402

Dear Lisa:

This is to confirm the use of the Civil Defense Conference Room for water right hearings/conferences to be held by this Department beginning at 9:30 a.m. on Monday, July 8 and at 9:00 a.m. on Tuesday, July 9, 1991. We originally scheduled the Conference Room for July 10th also, but find we will not need it.

Thank you for your cooperation in this matter.

Very truly yours,

COLLEEN WRAY
Adm. Assistant

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

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2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:

Janice M. Judy
5580 W. Elmwood
Idaho Falls, ID
83402

4. Article Number

0718

Type of Service:

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- ☐ Insured
- ☒ Certified
- ☐ COD
- ☐ Express Mail
- ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X B.W. Burlingame

6. Signature — Agent

X

7. Date of Delivery

JUN 2 4 1991

8. Addressee's Address *(ONLY if requested and fee paid)*

32-0061C

PS Form 3811, Apr. 1989 ★U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

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- *Endorse article "Return Receipt Requested" adjacent to number.*

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Department of Water Resources

Eastern District Office

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DEPARTMENT OF WATER RESOURCES

EASTERN DISTRICT OFFICE

150 SHOUP AVE. #15

IDAHO FALLS, IDAHO 83402

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Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:

Ted Sorenson
550 Linden Dr.
Idaho Falls, ID 83401

4. Article Number

0721

Type of Service:

- ☐ Registered
- ☐ Insured
- ☒ Certified
- ☐ COD
- ☐ Express Mail
- ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X K. Jedros

7. Date of Delivery

JUL 1 1991

8. Addressee's Address *(ONLY if requested and fee paid)*

32-006C

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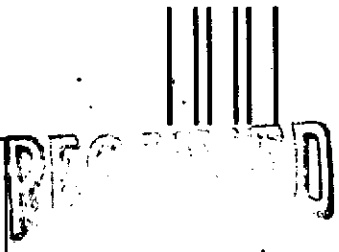
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EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

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1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:

Brick Barton, ESQ
P.O. Box 100
Rexburg, ID 83440

4. Article Number
0724

Type of Service:
- ☐ Registered
- ☐ Insured
- ☒ Certified
- ☐ COD
- ☐ Express Mail
- ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X

6. Signature — Agent
X Connie Bourne

7. Date of Delivery
JUN 2 1 1991

8. Addressee's Address *(ONLY if requested and fee paid)*

32-0102

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JUN

Department of Wa[illegible]
Eastern District Office

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**RETURN TO**

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

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1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:

Jerry R Rigby, ESQ
P.O. Box 250
Rexburg, ID 83440-0250

4. Article Number

0725

Type of Service:

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD
- ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

JUN 21 1991

8. Addressee's Address *(ONLY if requested and fee paid)*

32-0102

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Depart...
Eastern District Office

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

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1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:

Mac & Betty Wagoner
P.O. Box 296
Dubois, ID 83423

4. Article Number
0723

Type of Service:
- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD
- ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X Betty Lou Wagoner

6. Signature — Agent
X

7. Date of Delivery
6-21-91

8. Addressee's Address *(ONLY if requested and fee paid)*

32-0102

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JUN 24 1991

Department of Water Resources
Eastern District Office

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DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

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1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:

George C. Petersen
Attorney at Law
485 E Street
Idaho Falls, ID 83402

4. Article Number

0719

Type of Service:

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD
- ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature – Addressee

X Johnny D. Wheeler

6. Signature – Agent

X

7. Date of Delivery

8. Addressee's Address *(ONLY if requested and fee paid)*

32-0061C

PS Form **3811**, Apr. 1989 ★U.S.G.P.O. 1989-238-815 **DOMESTIC RETURN RECEIPT**

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

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JUN 2

Department of Water Resources

Eastern District Office

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Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

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2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:

Kent Foster
Attorney at Law
P.O. Box 50130
Idaho Falls, ID
83405

4. Article Number

0720

Type of Service:

- ☐ Registered
- ☑ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD
- ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature – Addressee

X

6. Signature – Agent

X Jenny Harris

7. Date of Delivery

6-21-91

8. Addressee's Address *(ONLY if requested and fee paid)*

32-066/C

PS Form **3811**, Apr. 1989 ★U.S.G.P.O. 1989-238-815 **DOMESTIC RETURN RECEIPT**

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OFFICIAL BUSINESS

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Department of Water Resources
Eastern District Office

JUN 7 1991

PENALTY FOR PRIVATE USE, $300

**RETURN TO**

Print Sender's name, address, and ZIP Code in the space below.

RECEIVED

DEPARTMENT OF WATER RESOURCES
EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

NAME AND ADDRESS OF SENDER

EASTERN DISTRICT OFFICE
150 SHOUP AVE. #15
IDAHO FALLS, IDAHO 83402

Indicate type of mail
☐ Registered
☐ Insured
☐ COD
☒ Certified ☐ Express Mail

Check appropriate block for Registered Mail:
☐ With Postal Insurance
☐ Without Postal Insurance

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

FOR REGISTERED, INSURED, C.O.D., CERTIFIED, AND EXPRESS MAIL

| Line | Number of Article | Name of Addressee, Street, and Post-Office Address | Postage | Fee | Handling Charge | Act. Value (If Regis.) | Insured Value | Due Sender If C.O.D. | R. R. Fee | S. D. Fee | S. H. Fee | Rest. Del. Fee / Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 0718 | Janice M Judy 3580 W Elsewood 07 | | | | | | | | | | 32-0061C |
| 2 | 0719 | George Petersen 485 E 07. | | | | | | | | | | |
| 3 | 0720 | Kent Foster PO Box 5030 07. | | | | | | | | | | |
| 4 | 0721 | Ted Sorensen 530 Linden 07. | | | | | | | | | | |
| 5 | 0722 | Blair Drover PO Box 36 Rigby | | | | | | | | | | |
| 6 | 0723 | Mac/Betty Wagner PO Box 296 Ucon | | | | | | | | | | 32-0067 |
| 7 | 0724 | Breck Barton PO Box 100 | | | | | | | | | | 32-0102 |
| 8 | 0725 | Jerry Rigby PO Box 250 Lyman | | | | | | | | | | " |
| 9 | 0726 | Bruce J Reed Box 67 Tetonia | | | | | | | | | | " |
| 10 | 0727 | Steven Goddard, Statehouse Boise | | | | | | | | | | 22-7691 |
| 11 | 0728 | Mark Bennett PO Box 358 Lyman | | | | | | | | | | |
| 12 | 0729 | Fremont Madison PO Box Lyman | | | | | | | | | | |
| 13 | 0730 | Marvel Neville 945 N 2000 W Rexburg | | | | | | | | | | |
| 14 | 0731 | JJ Beck Rt 1 Box 34 St Anthony | | | | | | | | | | |
| 15 | 0732 | John Pocock 4483 E 2000 N Sugar | | | | | | | | | | 22-7691 |

IDAHO FALLS, ID EAGLE ROCK ANNEX JUN 20 1991 USPS

| Total Number of Pieces Listed by Sender | Total Number of Pieces Received at Post Office | POSTMASTER, PER (Name of receiving employee) |
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| 15 | fifteen | R Linder |

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FORM MUST BE COMPLETED BY TYPEWRITER

PS Form 3877, May 1985

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR TRANSFER NO. 32-0061C/ETC. AND 32-0067/0090 IN THE NAME OF BIRCH CREEK RANCHES AND NO. 32-0102/ETC. IN THE NAME OF MAC OR BETTY WAGONER | COMBINED NOTICE OF HEARING |

On February 12, 1991, Birch Creek Ranches, Inc. filed an amended application to transfer water rights identified as Nos. 32-0061C/32-0090/32-0093/32-0068/32-0069/32-0089/32-0092/32-0091/32-0101 for the diversion of 17.5 cubic feet per second. Protests against approval of said transfer were received from Janice M. Judy, and George C. Petersen, Attorney at Law, in behalf of D & D Enterprises.

On February 12, 1991, Birch Creek Ranches, Inc. filed an additional amended application to transfer water rights identified as Nos. 32-0067/32-0090 for the diversion of 4.00 cubic feet per second. Protests against approval of this transfer were received from Blair Grover, Attorney at Law, in behalf of Lavar and Louise J. Newman and from George C. Petersen, Attorney at Law, in behalf of D & D Enterprises.

On February 6, 1991, Mac and Betty Wagoner filed a application to transfer water rights identified as Nos. 32-0073/0077/0078/0079/0085/0086/0087/0102 for the diversion of 6.00 cubic feet per second. Protests against approval of said transfer were received from Blair Grover, Attorney at Law, in behalf of Lavar and Louise J. Newman and from George C. Petersen, Attorney at Law, in behalf of D & D Enterprises.

Because of the similarities of the issues involved this hearing has been combined.

The Department has set the matter of protests for hearing for 9:30 a.m., Monday, July 8, 1991, in the Civil Defense Conference Room, Bonneville County Courthouse, 605 N. Capital, Idaho Falls, Idaho. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67 of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Date this 19th day of June, 1991.

Ronald D Carlson

RONALD D. CARLSON
Eastern Regional Manager

State of Idaho
DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

May 30, 1991

RE: App. for Transfer No. 32-0092/ETC. BIRCH CREEK RANCHES

Janice M. Judy
3580 W. Elswood
Idaho Falls, ID 83402

Dear Ms. Judy:

This letter acknowledges receipt of the protest filed against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfers?

2. Does the change constitute an enlargement in the use of the original rights?

3. Will the proposed use under these transfers conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing. We appreciate your support in this matter.

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

cc: IDWR - State Office

State of Idaho
DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

May 30, 1991

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

RE: App. for Transfer No. 32-0092/ETC. BIRCH CREEK RANCHES

George C. Petersen
Attorney at Law
485 "E" Street
Idaho Falls, ID 83402

Dear Mr. Petersen:

This letter acknowledges receipt of the protest filed in behalf of D & D Enterprises against the above referenced application for transfer. The following are the principle items considered by the Department at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfers?

2. Does the change constitute an enlargement in the use of the original rights?

3. Will the proposed use under these transfers conflict with the local public interest?

The protestant must be prepared to present proof of the allegations involving one or more of the items. You will be notified at a later date as to the time and place set for conference and/or hearing. We appreciate your support in this matter.

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

cc: IDWR - State Office

RECEIVED
MAY - 7 1991
Department of Water Resources
Eastern District Office

APPLICATION FOR TRANSFER OF

WATER RIGHT NO. 32-0061C

WATER DISTRICT 32-D

WATERMASTER Donald W. Shenton

DATE: May 6 1991

COMMENTS: I Find that the Mrs. Janice Judy Water Right that is not being transferred is in Error or so Conflicts with the actual Water Right purchased By WARRANTY Deed dated ① the 16th day of May 1932. also the historical Practice of Delivery has been By a priority of 0.10 C.F.S. May 10, 1888 from a Water Right in Birch Creek.

② There is still confusion on a Source For the Pass Creek WATER

③ I See that Bed losses have not been addressed.

X I do endorse approval of this change. if the following changes are made

X I do not endorse approval of this change. if Corrections are not made as Below

I recommend the following conditions of approval:

That the appropriate per cent of loss in the stream Bed be assessed to this total amount of C.F.S. Being transferred as the approved transfer. This water is being moved a long way Downstream and all downstream transfers I've ever been involved in through the years have all had to sustain these losses By per cent or an exact amount of CFS. loss as identified in the transfer.

I would also Recommend the Amount be Calculated as a total amount of C.F.S. as loss assessed By calculating an average amount throughout the year as a Basis Rather than have a very Difficult complicated way of Distribution by a daily percentage Cut-off.

Donald W. Shenton
Watermaster

I Also Recommend that Mrs. Janice Judy Water Right - Date - number - Amount - Source - priority Be Changed to her Real amount and priority as listed in the WARRANTY Deed, namely as follows - (Right #A32-00092A For 0.10 C.F.S. of Birch Creek with a priority of May 10, 1888.) See Claim # A32-00092A and WARRANTY Deed. Also Check the validity of the Pass Creek Source being transferred.

RECEIVED
MAY - 3 1991
Department of Water Resources
Eastern District Office

Janice M. Judy
3580 West Elswood
Idaho Falls, Idaho 83402

3 May 1991

Idaho Department Water Resources
150 Shoup Suite #15
Idaho Falls, Idaho 83402

RE: Protest to Birch Creek Transfer of water right 32-0092

Dear Sirs:

I wish to protest the application for transfer for water right 32-0092. The basis of my protest is the fact that according to my warranty deed, the water master water district 32-D, and records of water district 32-D, I have 5 miners inches (0.10 cfs) of water right 32-0092(05/10/1888). It appears to me that the Birch Creek Ranches, Inc. transfer and the preceding transfer #2165 credits my water as coming from three separate water rights (32-0091, 32-0092, and 32-0093) when in fact all of my water comes from only one water right (32-0092) with a priority of May 10, 1888.

Please see the attached copy of my warranty deed.

Sincerely,

Janice M. Judy

Withdrawn

RECEIVED
MAY - 3 1991
Department of Water Resources
Eastern District Office

************************

9374 WARRANTY DEED

THIS INDENTURE, Made this 18th day of May 1932 in the year of our Lord one thousand nine hundred and Thirty-two BETWEEN Auto Bare and Nancy Jane Bare, his wife of Winsper, County of Clark, State of Idaho the parties of the first part, and Dale Bare of Winsper, County of Clark, State of Idaho the party of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of Five Hundred and no/100 ($500.00) DOLLARS lawful money of the United States of America, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the following described real estate situate in County of Clark and State of idaho, to-wit:

Beginning at a point on the Section line between sections 31 and 32 Which is 12 chains South of the Section corner common to sections 29, 30, 31 and 32. Twp. 10 N. R. 30, E.B.M. Thence south no degrees and 4 minutes East along said Section line for 6 chains: Thence East 9 Chains: Thence North one degree and 50 minutes west for 8 chains and 50 links: Thence North nine degrees and 40 minutes West for 3 chains and 48 links: Thence North seven degrees and 44 minutes East for 2 chains and 23 links; Thence North 55 degrees and 40 minutes West for 1 chain and 75 links: Thence South No degrees and four minutes East for 7 chains and 10 links; Thence West 5 chains: Thence South no degrees and 4 minutes East for 2 chains: Thence West for 2 chains: to place of beginning on said Section line and containing 7.63 Acres, more or less. All being in Twp. 10 North Range 30 E.B.M. Together with five inches of water of Birch Creek, dating May 10 1888. Said water being a part of the original decreed right and decreed to M. Kaufman, Edward Kaufman and Henry Kaufman.

TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to said property, as well in law as in equity, of the said parties of the first part:

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns, forever, and the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will Warrant and by these presents forever Defend.

32-0092

RECEIVED
MAY - 3 1991
Department of Water Resources
Eastern District Office

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of

Auto Bare (Seal)

Nancy Jane Bare (Seal)

STATE OF IDAHO, )
) ss.
County of Clark )

On this 18th day of May, 1932, before me, John W. Hays, a Notary Public in and for said State, Personally appeared Auto Bare and Nancy Jane Bare, his wife, known to me to be the person whose names are subscribed to the within instrument, and acknowledged to me that they 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.

( S E A L )

John W. Hays
Notary Public. Residing at
Dubois, Idaho

My Commission expires May 15. 1934.

State of Idaho, )
) ss.
County of Clark )

I hereby certify that this instrument was filed for record at the request of Auto Bare at 3:10 o'clock P.M., this 26 day of May, 1932, in my office, and duly recorded in Book 3 of Deeds at page 667.

G. B. Allan, Ex-officio Recorder.

By [signature] Deputy.

Fees $1.20

Book 3

State of Idaho
DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

May 3, 1991

RE: Application for Transfer No. 32-00061C/AMENDED
BIRCH CREEK RANCHES

Kent Foster
Attorney at Law
PO Box 50130
Idaho Falls, ID 83405

Dear Mr. Foster:

Enclosed please find a copy of a protest filed against the above referenced application. You should be aware that the following are the items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?

2. Does the change constitute an enlargement in the use of the original right?

3. Will the proposed use under this transfer conflict with the local public interest?

The applicant must be prepared to present evidence and/or testimony addressing each of the three items should an additional hearing be necessary. You will be notified at a later date as to the time and place set for conference and/or hearing.

If we may be of further assistance, please contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

cc: IDWR - State Office

11-Apr-1991

DON SHENTON
WATER DIST 32 D
PO BOX 33
DUBOIS ID 83423

RE: Application No. 32-00102,ETC, 32-0061C, ETC, & 32-0067/32-0090

Dear Watermaster:

Please find enclosed a copy of the above referenced application. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is May 6, 1991, and we are required to take action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Thank you for your cooperation in this matter.

Respectfully submitted,

Harold Jones
Water Rights Supervisor

HJ/rb
Enclosure

09-Apr-1991

POST REGISTER
PO BOX 1800
IDAHO FALLS ID 83403

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before MAY 6, 1991.

Yours truly,

Rita Bodell
Secretary/Office Coordinator

Encl.

09-Apr-1991

THE TIMES NEWS
PO BOX 548
TWIN FALLS ID 83303

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before MAY 6, 1991.

Yours truly,

Rita Bodell
Secretary/Office Coordinator

Encl.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHTS**

The following three transfers are based upon an agreement between Birch Creek Ranches & Mac Wagoner, and are dependent upon approval of all three applications.

**NO. 32-00102, ETC.**

Notice is hereby given that Mac or Betty Wagoner has applied to the Department of Water Resources to change point of diversion and place of use of the waters of Birch Creek. The right sought to be changed is evidenced by Decrees and recorded as follows:

Decreed to Samuel Goddard in case of Frank Reno, et al, vs. J.R. Richards dated October 2, 1894.

Decree No. 32-00102

AMOUNT: 4.00 cfs PRIORITY: May 10, 1889

Place of use not listed in decree

Decreed to Samuel Goddard in case of Agnus Reno vs. J.R. Richards dated September 6, 1922.

Decree No. 0085

AMOUNT: .2 cfs PRIORITY: May 10, 1910

Decree No. 0086

AMOUNT: .2 cfs PRIORITY: May 1, 1911

Decree No. 0087

AMOUNT: .2 cfs PRIORITY: May 1, 1912

The water is used to irrigate 120 acres within the SENW, NESW, NWSE, SEC 9, T 9N, R 30E, B.M.

Decreed to George Goddard in case of Agnus Reno vs. J.R. Richards dated September 6, 1922.

Decree No. 0073

AMOUNT: .2 cfs PRIORITY: May 15, 1909

Decree No. 0077

AMOUNT: .2 cfs PRIORITY: May 15, 1910

Decree No. 0078

AMOUNT: .2 cfs PRIORITY: May 15, 1911

Decree No. 0079

AMOUNT: .8 cfs PRIORITY: May 15, 1913

The water is used to irrigate 160 acres within the W1/2NE, SENE, NENW, SEC 9, T 9N, R 30E, B.M.

POINTS OF DIVERSION NOT LISTED IN ABOVE DECREES

TO BE CHANGED AS FOLLOWS:

Only 6 cfs will be diverted from the SESW, SEC 34, T 9N, R 30E, CLARK COUNTY and used from April 1 to November 1 to irrigate 960 acres within the SESW, W1/2SE, SESE, SEC 12, T 8N, R 31E; E1/2SE, SEC 1; N1/2SW, SE, SEC 10; S1/2NW, SW, SEC 11; N1/2NW, SEC 14, T 8N, R 32E; E1/2SW, W1/2SE, SEC 6, T 8N, R 33E, B.M.

**NO. 32-0061C, ETC.**

Notice is hereby given that Birch Creek Ranches, Inc. has applied to the Department of Water Resources to change point of diversion and place of use of the waters of Birch Creek. The right sought to be changed is evidenced by Decrees and recorded as follows:

Decreed to C.B. Watts
Decree No. 32-0090
AMOUNT: 1.6 cfs PRIORITY: May 10, 1886
Decree No. 32-0089
AMOUNT: 2.5 cfs PRIORITY: May 10, 1888

Decreed to Edward M. Kaufman
Decree No. 32-0093
AMOUNT: 1.56522 cfs PRIORITY: May 10, 1886
Decree No. 32-0092
AMOUNT: 2.44565 cfs PRIORITY: May 10, 1888
Decree No. 32-0091
AMOUNT: .48913 cfs PRIORITY: May 1, 1901

Decreed to Wood Livestock Co.
Decree No. 32-0068
AMOUNT: 3.2 cfs PRIORITY: May 10, 1887
Decree No. 32-0069
AMOUNT: 3.2 cfs PRIORITY: May 10, 1888

Decreed to Jerome F. Reno
Decree No. 32-0061C
AMOUNT: .4 cfs PRIORITY: May 10, 1888
in case of Agnes B. Reno, et al, vs. J.R. Richards, et al, dated September 6, 1922 in 9th District Court county of Fremont.

POINT(S) OF DIVERSION: NESW, SEC 11; NENE, SEC 14; NWNE, NESE, SENE, SEC 24, T 10N, R 29E; SWSW, SEC 29; NWNW, SEC 32, T 10N, R 30E, B.M.

The water is used from April 1 to November 1 to irrigate 960 acres within the W1/2NW, SENW, NESW, W1/2SE, SESE, SEC 11; SWSW, SEC 12; W1/2NW, NWSW, SEC 13; E1/2NE, SEC 14; SESE, SEC 24; NENE, SEC 25, T 10N, R 29E, B.M.; SWNW, W1/2SW, SESW, SWSE, SEC 19; SWSW, SEC 29; NE, N1/2NW, SENW, SEC 30; W1/2NE, N1/2NW, SENW, NESW, W1/2SE, SEC 32, T 10N, R 30E, B.M.

Decree No. 32-0101 Decreed to Thomas J. Weimer in case of Agnes B. Reno, et al, vs. J.R. Richards, et al, dated September 6, 1922 in 9th District Court county of Fremont.
AMOUNT: 2.9 cfs PRIORITY: June 4, 1909
POINT OF DIVERSION: SESENE, SEC 3, T 10N, R 29E, CLARK COUNTY
The water is used from April 1 to November 1 to irrigate 64 acres of land within the SWSW, SEC 2; SENE, E1/2SE, SEC 3, T 10N, R 29E, B.M.

TO BE CHANGED AS FOLLOWS:

Only 17.5 cfs will be diverted from the SESW, SEC 34, T 9N, R 30E, B.M. (New Reno Diversion) and used to irrigate 960 acres within the SESW, NWSE, S1/2SE, SEC 12, T 8N, R 31E; E1/2SE, SEC 1; N1/2SW, SE, SEC 10; S1/2NW, SW, SEC 11; N1/2NW, SEC 14, T 8N, R 32E; E1/2SW, W1/2SE, SEC 6, T 8N, R 33E, B.M.

**NO.'S 32-0067 & 32-0090**

Notice is hereby given for the purposed amendment of application No.'s 32-0067 & 32-0090 by Birch Creek Ranches, Inc. to change point of diversion and place of use of the waters Birch Creek. The rights sought to be changed are evidenced by Decrees and recorded as follows:
Decreed to Wood Livestock Co.
Decree No. 32-0067
AMOUNT: 3.2 cfs
PURPOSES FROM: Irrigation April 1 to November 1
AMOUNT: .8 cfs
PURPOSES FROM: Stockwater March 1 to December 1
PRIORITY: September 10, 1882

Decreed to C.B. Watts.
Decree No. 32-0090
AMOUNT: 1.6 cfs PRIORITY: May 10, 1886
in case of Agnes B. Reno, et al, vs. J.R. Richards, et al, dated September 6, 1922 in 9th District Court county of Fremont.

POINT(S) OF DIVERSION: NESW, SEC 11; NENE, SEC 14; NWNE, NESE, SENE, SEC 24, T 10N, R 29E; SWSW, SEC 29; NWNW, SEC 32, T 10N R 30E, B.M.

The water is used from April 1 to November 1 to irrigate 960 acres within the W1/2NW, SENW, NESW, W1/2SE, SESE, SEC 11; SWSW, SEC 12; W1/2NW, NWSW, SEC 13; E1/2NE, SEC 14; SESE, SEC 24; NENE, SEC 25, T 10N, R 29E, B.M.; SWNW, W1/2SW, SESW, SWSE, SEC 19; SWSW, SEC 29; NE, N1/2NW, SENW, SEC 30; W/12NE, N1/2NW, SENW, NESW, W1/2SE, SEC 32, T 10N, R 30E, B.M.

TO BE CHANGED AS FOLLOWS:

The water will be diverted from the SENENW(LOT 3), SEC 5, T 9N, R 30E, (WAGONER DIVERSION) and used to irrigate 339 acres of land within the NESW, NWSW(LOT 6), SWSW(LOT 7), SESW, SWSE, SEC 4; SENE, E1/2SE, SEC 5; W1/2NE, NW, E1/2SW, W1/2SE, SEC 9, T 9N, R 30E, B.M.

Any protests against the proposed change must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, ID, 83402, on or before MAY 6, 1991.

R. Keith Higginson
Director

Published in the TIMES-NEWS on APRIL 18 & 25, 1991.

09-Apr-1991

LEWISTON MORNING TRIBUNE
PO BOX 957
LEWISTON ID 83501

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before MAY 6, 1991.

Yours truly,

Rita Bodell
Secretary/Office Coordinator

Encl.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHTS**

The following three transfers are based upon an agreement between Birch Creek Ranches & Mac Wagoner, and are dependent upon approval of all three applications.

**NO. 32-00102, ETC.**

Notice is hereby given that Mac or Betty Wagoner has applied to the Department of Water Resources to change point of diversion and place of use of the waters of Birch Creek. The right sought to be changed is evidenced by Decrees and recorded as follows:

Decreed to Samuel Goddard in case of Frank Reno, et al, vs. J.R. Richards dated October 2, 1894.

Decree No. 32-00102

AMOUNT: 4.00 cfs PRIORITY: May 10, 1889

Place of use not listed in decree

Decreed to Samuel Goddard in case of Agnus Reno vs. J.R. Richards dated September 6, 1922.

Decree No. 0085

AMOUNT: .2 cfs PRIORITY: May 10, 1910

Decree No. 0086

AMOUNT: .2 cfs PRIORITY: May 1, 1911

Decree No. 0087

AMOUNT: .2 cfs PRIORITY: May 1, 1912

The water is used to irrigate 120 acres within the SENW, NESW, NWSE, SEC 9, T 9N, R 30E, B.M.

Decreed to George Goddard in case of Agnus Reno vs. J.R. Richards dated September 6, 1922.

Decree No. 0073

AMOUNT: .2 cfs PRIORITY: May 15, 1909

Decree No. 0077

AMOUNT: .2 cfs PRIORITY: May 15, 1910

Decree No. 0078

AMOUNT: .2 cfs PRIORITY: May 15, 1911

Decree No. 0079

AMOUNT: .8 cfs PRIORITY: May 15, 1913

The water is used to irrigate 160 acres within the W1/2NE, SENE, NENW, SEC 9, T 9N, R 30E, B.M.

POINTS OF DIVERSION NOT LISTED IN ABOVE DECREES

TO BE CHANGED AS FOLLOWS:

Only 6 cfs will be diverted from the SESW, SEC 34, T 9N, R 30E, CLARK COUNTY and used from April 1 to November 1 to irrigate 960 acres within the SESW, W1/2SE, SESE, SEC 12, T 8N, R 31E; E1/2SE, SEC 1; N1/2SW, SE, SEC 10; S1/2NW, SW, SEC 11; N1/2NW, SEC 14, T 8N, R 32E; E1/2SW, W1/2SE, SEC 6, T 8N, R 33E, B.M.

**NO. 32-0061C, ETC.**

Notice is hereby given that Birch Creek Ranches, Inc. has applied to the Department of Water Resources to change point of diversion and place of use of the waters of Birch Creek. The right sought to be changed is evidenced by Decrees and recorded as follows:

Decreed to C.B. Watts
Decree No. 32-0090
AMOUNT: 1.6 cfs PRIORITY: May 10, 1886
Decree No. 32-0089
AMOUNT: 2.5 cfs PRIORITY: May 10, 1888

Decreed to Edward M. Kaufman
Decree No. 32-0093
AMOUNT: 1.56522 cfs PRIORITY: May 10, 1886
Decree No. 32-0092
AMOUNT: 2.44565 cfs PRIORITY: May 10, 1888
Decree No. 32-0091
AMOUNT: .48913 cfs PRIORITY: May 1, 1901

Decreed to Wood Livestock Co.
Decree No. 32-0068
AMOUNT: 3.2 cfs PRIORITY: May 10, 1887
Decree No. 32-0069
AMOUNT: 3.2 cfs PRIORITY: May 10, 1888

Decreed to Jerome F. Reno
Decree No. 32-0061C
AMOUNT: .4 cfs PRIORITY: May 10, 1888
in case of Agnes B. Reno, et al, vs. J.R. Richards, et al, dated September 6, 1922 in 9th District Court county of Fremont.

POINT(S) OF DIVERSION: NESW, SEC 11; NENE, SEC 14; NWNE, NESE, SENE, SEC 24, T 10N, R 29E; SWSW, SEC 29; NWNW, SEC 32, T 10N, R 30E, B.M.

The water is used from April 1 to November 1 to irrigate 960 acres within the W1/2NW, SENW, NESW, W1/2SE, SESE, SEC 11; SWSW, SEC 12; W1/2NW, NWSW, SEC 13; E1/2NE, SEC 14; SESE, SEC 24; NENE, SEC 25, T 10N, R 29E, B.M.; SWNW, W1/2SW, SESW, SWSE, SEC 19; SWSW, SEC 29; NE, N1/2NW, SENW, SEC 30; W1/2NE, N1/2NW, SENW, NESW, W1/2SE, SEC 32, T 10N, R 30E, B.M.

Decree No. 32-0101 Decreed to Thomas J. Weimer in case of Agnes B. Reno, et al, vs. J.R. Richards, et al, dated September 6, 1922 in 9th District Court county of Fremont.
AMOUNT: 2.9 cfs PRIORITY: June 4, 1909
POINT OF DIVERSION: SESENE, SEC 3, T 10N, R 29E, CLARK COUNTY
The water is used from April 1 to November 1 to irrigate 64 acres of land within the SWSW, SEC 2; SENE, E1/2SE, SEC 3, T 10N, R 29E, B.M.

TO BE CHANGED AS FOLLOWS:

Only 17.5 cfs will be diverted from the SESW, SEC 34, T 9N, R 30E, B.M. (New Reno Diversion) and used to irrigate 960 acres within the SESW, NWSE, S1/2SE, SEC 12, T 8N, R 31E; E1/2SE, SEC 1; N1/2SW, SE, SEC 10; S1/2NW, SW, SEC 11; N1/2NW, SEC 14, T 8N, R 32E; E1/2SW, W1/2SE, SEC 6, T 8N, R 33E, B.M.

**NO.'S 32-0067 & 32-0090**

Notice is hereby given for the purposed amendment of application No.'s 32-0067 & 32-0090 by Birch Creek Ranches, Inc. to change point of diversion and place of use of the waters Birch Creek. The rights sought to be changed are evidenced by Decrees and recorded as follows:
Decreed to Wood Livestock Co.
Decree No. 32-0067
AMOUNT: 3.2 cfs
PURPOSES FROM: Irrigation April 1 to November 1
AMOUNT: .8 cfs
PURPOSES FROM: Stockwater March 1 to December 1
PRIORITY: September 10, 1882

Decreed to C.B. Watts.
Decree No. 32-0090
AMOUNT: 1.6 cfs PRIORITY: May 10, 1886
in case of Agnes B. Reno, et al, vs. J.R. Richards, et al, dated September 6, 1922 in 9th District Court county of Fremont.

POINT(S) OF DIVERSION: NESW, SEC 11; NENE, SEC 14; NWNE, NESE, SENE, SEC 24, T 10N, R 29E; SWSW, SEC 29; NWNW, SEC 32, T 10N R 30E, B.M.

The water is used from April 1 to November 1 to irrigate 960 acres within the W1/2NW, SENW, NESW, W1/2SE, SESE, SEC 11; SWSW, SEC 12; W1/2NW, NWSW, SEC 13; E1/2NE, SEC 14; SESE, SEC 24; NENE, SEC 25, T 10N, R 29E, B.M.; SWNW, W1/2SW, SESW, SWSE, SEC 19; SWSW, SEC 29; NE, N1/2NW, SENW, SEC 30; W/12NE, N1/2NW, SENW, NESW, W1/2SE, SEC 32, T 10N, R 30E, B.M.

TO BE CHANGED AS FOLLOWS:

The water will be diverted from the SENENW(LOT 3), SEC 5, T 9N, R 30E, (WAGONER DIVERSION) and used to irrigate 339 acres of land within the NESW, NWSW(LOT 6), SWSW(LOT 7), SESW, SWSE, SEC 4; SENE, E1/2SE, SEC 5; W1/2NE, NW, E1/2SW, W1/2SE, SEC 9, T 9N, R 30E, B.M.

Any protests against the proposed change must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, ID, 83402, on or before MAY 6, 1991.

R. Keith Higginson
Director

Published in the LEWISTON MORNING TRIBUNE on APRIL 18 & 25, 1991.

09-Apr-1991

IDAHO STATESMAN
PO BOX 40
BOISE ID 83707

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before MAY 6, 1991.

Yours truly,

Rita Bodell
Secretary/Office Coordinator

Encl.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHTS**

The following three transfers are based upon an agreement between Birch Creek Ranches & Mac Wagoner, and are dependent upon approval of all three applications.

**NO. 32-00102, ETC.**

Notice is hereby given that Mac or Betty Wagoner has applied to the Department of Water Resources to change point of diversion and place of use of the waters of Birch Creek. The right sought to be changed is evidenced by Decrees and recorded as follows:

Decreed to Samuel Goddard in case of Frank Reno, et al, vs. J.R. Richards dated October 2, 1894.

Decree No. 32-00102

AMOUNT: 4.00 cfs PRIORITY: May 10, 1889

Place of use not listed in decree

Decreed to Samuel Goddard in case of Agnus Reno vs. J.R. Richards dated September 6, 1922.

Decree No. 0085

AMOUNT: .2 cfs PRIORITY: May 10, 1910

Decree No. 0086

AMOUNT: .2 cfs PRIORITY: May 1, 1911

Decree No. 0087

AMOUNT: .2 cfs PRIORITY: May 1, 1912

The water is used to irrigate 120 acres within the SENW, NESW, NWSE, SEC 9, T 9N, R 30E, B.M.

Decreed to George Goddard in case of Agnus Reno vs. J.R. Richards dated September 6, 1922.

Decree No. 0073

AMOUNT: .2 cfs PRIORITY: May 15, 1909

Decree No. 0077

AMOUNT: .2 cfs PRIORITY: May 15, 1910

Decree No. 0078

AMOUNT: .2 cfs PRIORITY: May 15, 1911

Decree No. 0079

AMOUNT: .8 cfs PRIORITY: May 15, 1913

The water is used to irrigate 160 acres within the W1/2NE, SENE, NENW, SEC 9, T 9N, R 30E, B.M.

POINTS OF DIVERSION NOT LISTED IN ABOVE DECREES

TO BE CHANGED AS FOLLOWS:

Only 6 cfs will be diverted from the SESW, SEC 34, T 9N, R 30E, CLARK COUNTY and used from April 1 to November 1 to irrigate 960 acres within the SESW, W1/2SE, SESE, SEC 12, T 8N, R 31E; E1/2SE, SEC 1; N1/2SW, SE, SEC 10; S1/2NW, SW, SEC 11; N1/2NW, SEC 14, T 8N, R 32E; E1/2SW, W1/2SE, SEC 6, T 8N, R 33E, B.M.

**NO. 32-0061C, ETC.**

Notice is hereby given that Birch Creek Ranches, Inc. has applied to the Department of Water Resources to change point of diversion and place of use of the waters of Birch Creek. The right sought to be changed is evidenced by Decrees and recorded as follows:

Decreed to C.B. Watts
Decree No. 32-0090
AMOUNT: 1.6 cfs PRIORITY: May 10, 1886
Decree No. 32-0089
AMOUNT: 2.5 cfs PRIORITY: May 10, 1888

Decreed to Edward M. Kaufman
Decree No. 32-0093
AMOUNT: 1.56522 cfs PRIORITY: May 10, 1886
Decree No. 32-0092
AMOUNT: 2.44565 cfs PRIORITY: May 10, 1888
Decree No. 32-0091
AMOUNT: .48913 cfs PRIORITY: May 1, 1901

Decreed to Wood Livestock Co.
Decree No. 32-0068
AMOUNT: 3.2 cfs PRIORITY: May 10, 1887
Decree No. 32-0069
AMOUNT: 3.2 cfs PRIORITY: May 10, 1888

Decreed to Jerome F. Reno
Decree No. 32-0061C
AMOUNT: .4 cfs PRIORITY: May 10, 1888
in case of Agnes B. Reno, et al, vs. J.R. Richards, et al, dated September 6, 1922 in 9th District Court county of Fremont.

POINT(S) OF DIVERSION: NESW, SEC 11; NENE, SEC 14; NWNE, NESE, SENE, SEC 24, T 10N, R 29E; SWSW, SEC 29; NWNW, SEC 32, T 10N, R 30E, B.M.

The water is used from April 1 to November 1 to irrigate 960 acres within the W1/2NW, SENW, NESW, W1/2SE, SESE, SEC 11; SWSW, SEC 12; W1/2NW, NWSW, SEC 13; E1/2NE, SEC 14; SESE, SEC 24; NENE, SEC 25, T 10N, R 29E, B.M.; SWNW, W1/2SW, SESW, SWSE, SEC 19; SWSW, SEC 29; NE, N1/2NW, SENW, SEC 30; W1/2NE, N1/2NW, SENW, NESW, W1/2SE, SEC 32, T 10N, R 30E, B.M.

Decree No. 32-0101 Decreed to Thomas J. Weimer in case of Agnes B. Reno, et al, vs. J.R. Richards, et al, dated September 6, 1922 in 9th District Court county of Fremont.
AMOUNT: 2.9 cfs PRIORITY: June 4, 1909
POINT OF DIVERSION: SESENE, SEC 3, T 10N, R 29E, CLARK COUNTY

The water is used from April 1 to November 1 to irrigate 64 acres of land within the SWSW, SEC 2; SENE, E1/2SE, SEC 3, T 10N, R 29E, B.M.

TO BE CHANGED AS FOLLOWS:

Only 17.5 cfs will be diverted from the SESW, SEC 34, T 9N, R 30E, B.M. (New Reno Diversion) and used to irrigate 960 acres within the SESW, NWSE, S1/2SE, SEC 12, T 8N, R 31E; E1/2SE, SEC 1; N1/2SW, SE, SEC 10; S1/2NW, SW, SEC 11; N1/2NW, SEC 14, T 8N, R 32E; E1/2SW, W1/2SE, SEC 6, T 8N, R 33E, B.M.

**NO.'S 32-0067 & 32-0090**

Notice is hereby given for the purposed amendment of application No.'s 32-0067 & 32-0090 by Birch Creek Ranches, Inc. to change point of diversion and place of use of the waters Birch Creek. The rights sought to be changed are evidenced by Decrees and recorded as follows:
Decreed to Wood Livestock Co.
Decree No. 32-0067
AMOUNT: 3.2 cfs
PURPOSES FROM: Irrigation April 1 to November 1
AMOUNT: .8 cfs
PURPOSES FROM: Stockwater March 1 to December 1
PRIORITY: September 10, 1882

Decreed to C.B. Watts.
Decree No. 32-0090
AMOUNT: 1.6 cfs PRIORITY: May 10, 1886
in case of Agnes B. Reno, et al, vs. J.R. Richards, et al, dated September 6, 1922 in 9th District Court county of Fremont.

POINT(S) OF DIVERSION: NESW, SEC 11; NENE, SEC 14; NWNE, NESE, SENE, SEC 24, T 10N, R 29E; SWSW, SEC 29; NWNW, SEC 32, T 10N R 30E, B.M.

The water is used from April 1 to November 1 to irrigate 960 acres within the W1/2NW, SENW, NESW, W1/2SE, SESE, SEC 11; SWSW, SEC 12; W1/2NW, NWSW, SEC 13; E1/2NE, SEC 14; SESE, SEC 24; NENE, SEC 25, T 10N, R 29E, B.M.; SWNW, W1/2SW, SESW, SWSE, SEC 19; SWSW, SEC 29; NE, N1/2NW, SENW, SEC 30; W/12NE, N1/2NW, SENW, NESW, W1/2SE, SEC 32, T 10N, R 30E, B.M.

TO BE CHANGED AS FOLLOWS:

The water will be diverted from the SENENW(LOT 3), SEC 5, T 9N, R 30E, (WAGONER DIVERSION) and used to irrigate 339 acres of land within the NESW, NWSW(LOT 6), SWSW(LOT 7), SESW, SWSE, SEC 4; SENE, E1/2SE, SEC 5; W1/2NE, NW, E1/2SW, W1/2SE, SEC 9, T 9N, R 30E, B.M.

Any protests against the proposed change must be filed with the Idaho Department of Water Resources, 150 Shoup Ave., Idaho Falls, ID, 83402, on or before MAY 6, 1991.

R. Keith Higginson
Director

Published in the IDAHO STATESMAN on APRIL 18 & 25, 1991.

State of Idaho
DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

03 April 1991

Kent Foster
P.O. Box 50130
Idaho Falls, Idaho 83405

RE: Birch Creek Ranches, Inc. Transfers - Proof of Ownership - Tax Notices

Dear Mr. Foster:

The tax notices that were received by this office did not include the following place of use:

Tax 1, Sec 19, T10N, R30E: SE¼SW¼ lying east of Highway 28 right-of-way; Lot 4 lying east of Highway 28 right-of-way; and that part of Lot 3 lying east of Highway 28 right-of-way and south of a line running east from the intersection of the highway right-of-way and existing fence line (known as the Dance Hall field fence).

Tax 2, Sec 30, T10N, R30E: The north half of Section 30 lying east of the Highway 28 right-of-way.

Both of these legal descriptions are found in attachment # 3 and # 4 which describe the original place of use.

Please respond with the proof of ownership on or before 30 April 1991. Your prompt attention to this would be appreciated.

Sincerely,

Keith C Wilson

Keith C. Wilson
Senior Resource Agent

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
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MARIE T. FEELEY
JOHN G. SIMMONS
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

RECEIVED
MAR 19 1991
Department of Water Resources
Eastern District Office

March 19, 1991

Keith C. Wilson, Senior Resource Agent
IDAHO DEPARTMENT OF WATER RESOURCES
150 Shoup Avenue, #15
Idaho Falls, Idaho 83402

RE: Birch Creek Ranches, Inc.
Amended Applications for Transfer

Dear Mr. Wilson:

We have just received and are enclosing copies of the relevant tax notices in the above referenced matter.

If you have additional questions or comments, please contact me.

Yours very truly,

John G. Simmons for
Kent W. Foster

#6936.00/srs

Enclosure

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

CORRECTED NOTICE

PARCEL NO. RP 10N30E193612 A

TAX CODE 7-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE | |
|---|---|---|---|
| 1 IRRGTD AG | 53.000 AC | 11,130 | 1990 |
| 5 DRY GRAZING | 70.500 AC | 1,974 | TAXPAYERS |
| | | | VALUATION |
| | 123.500 | 13,104* | ASSESSMENT NOTICE |

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 22, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER RP10N30E193610A

SEC 19 TWP 10 RGE 30
LOT 2, TAX 2 LESS 7 AC FOR RD

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

CORRECTED NOTICE

PARCEL NO. RP 10N30E320610 A

TAX CODE 7-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE | |
|---|---|---|---|
| 1 IRRGTD AG | 144.800 AC | 27,367 | 1990 |
| 5 DRY GRAZING | 296.270 AC | 8,162 | TAXPAYERS |
| 19 WASTE | 12.000 AC | | VALUATION |
| | 453.070 | 35,529* | ASSESSMENT NOTICE |

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 22, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER

SEC 32 TWP 10 RGE 30
W2E2, SESE, NENW, TAX 1,3,4
S2NW, N2SW, SESW LESS 12.3 AC.
RD

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N29E113010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | | MARKET VALUE |
|---|---|---|---|
| 1 IRRGTD AG | 144.600 | AC | 41,934 |
| 5 DRY GRAZING | 119.400 | AC | 3,343 |
| 19 WASTE | 16.000 | AC | |
| | 280.000 | | 45,277* |

1990
TAXPAYERS
VALUATION
*ASSESSMENT NOTICE
Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE
JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 11 TWP 10 RGE 29
SENW, W2NW, NESW, W2SE, SESE

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N29E126010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | | MARKET VALUE |
|---|---|---|---|
| 1 IRRGTD AG | 34.200 | AC | 7,934 |
| 5 DRY GRAZING | 5.800 | AC | 99 |
| | 40.000 | | 8,033* |

1990
TAXPAYERS
VALUATION
ASSESSMENT NOTICE
Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE
JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 12 TWP 10 RGE 29
SWSW

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N29E133010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | | MARKET VALUE |
|---|---|---|---|
| 1 IRRGTD AG | 75.200 | AC | 17,446 |
| 5 DRY GRAZING | 185.700 | AC | 2,628 |
| 19 WASTE | 19.100 | AC | |
| | 280.000 | | 20,074 |

1990
TAXPAYERS
VALUATION
*ASSESSMENT NOTICE

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE
JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 13 TWP 10 RGE 29
W2NW, N2SW, SESW, S2SE

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N29E140010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | | MARKET VALUE |
|---|---|---|---|
| 1 IRRGTD AG | 58.100 | AC | 13,479 |
| 5 DRY GRAZING | 99.500 | AC | 932 |
| 19 WASTE | 2.400 | AC | |
| | 160.000 | | 14,411 |

1990
TAXPAYERS
VALUATION
*ASSESSMENT NOTICE

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE
JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 14 TWP 10 RGE 29
N2NE, SENE, NESE

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N29E240010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE | |
|---|---|---|---|
| 1 IRRGTD AG | 23.500 AC | 6,815 | 1990 |
| 5 DRY GRAZING | 160.200 AC | 1,582 | TAXPAYERS |
| 19 WASTE | 11.400 AC | | VALUATION |
| | 195.100 | 8,397* | ASSESSMENT NOTICE |

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 24 TWP 10 RGE 29
E2NE, LESS TAX 1,2,3 & PARCEL 1830 KNOWN AS TAX 1A, N2SE, SESE

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N29E250010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE | |
|---|---|---|---|
| 1 IRRGTD AG | 8.000 AC | 2,320 | 1990 |
| 5 DRY GRAZING | 32.000 AC | 256 | TAXPAYERS |
| | 40.000 | 2,576* | VALUATION |
| | | | ASSESSMENT NOTICE |

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 15, 1990

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 25 TWP 10 RGE 29
NENE

Mail To:
SIMMONS, WILLIAM T & THEOLA
% BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N30E295410 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE |
|---|---|---|
| 1 IRRGTD AG | 12.600 AC | 2,381 |
| 5 DRY GRAZING | 71.200 AC | 570 |
| 10 RURAL HOMESITE | 1.000 AC | 2,500 |
| 31 RURAL RES BLDG | | 19,368 |
| 32 RURAL IMP ON AG | | 24,651 |
| | 84.800 | 49,470* |

1990
TAXPAYERS VALUATION
ASSESSMENT NOTICE

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE
JUNE 15, 1990

See the reverse side for further reference
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER
SEC 29 TWP 10 RGE 30
TAX 1, SESW

Mail To:
SIMMONS, WILLIAM T & THEOLA
X BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

BETTY KIRKPATRICK
CLARK COUNTY ASSESSOR
BOX 7
DUBOIS, ID 83423

**THIS IS NOT A BILL**

PARCEL NO. RP 10N30E303010 A

TAX CODE 3-00

| CATEGORY DESCRIPTION | LOTS / ACRES | MARKET VALUE |
|---|---|---|
| 1 IRRGTD AG | 49.500 AC | 10,395 |
| 5 DRY GRAZING | 52.880 AC | 1,481 |
| 19 WASTE | 3.600 AC | |
| | 105.980 | 11,876 |

1990
TAXPAYERS VALUATION
ASSESSMENT NOTICE

Taxes are based on the valuation listed on this statement

IF THERE ARE ANY QUESTIONS REGARDING THIS STATEMENT NOTIFY THE ASSESSOR'S OFFICE BEFORE
JUNE 15, 1990

See the reverse side for further reference
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS
PREVIOUS NUMBER RP10N30E300010A
SEC 30 TWP 10 RGE 30
LOT 1, TAX 3 & HWY

Mail To:
SIMMONS, WILLIAM T & THEOLA
X BIRCH CREEK RANCHES, INC.
2988 TIPPERARY LANE
IDAHO FALLS, ID 83404

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
MICHAEL D. CRAPO
GAYLE A. SORENSON
DONALD L. HARRIS
RANDALL B. REED
MARIE T. FEELEY
JOHN G. SIMMONS
ROBERT M. FOLLETT

WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

FEB 12 1991

February 12, 1991

RECEIVED
FEB 12 1991
Department of Water Resources
Eastern District Office

Idaho Department of Water Resources
150 Shoup Avenue, #15
Idaho Falls, Idaho 83402

Gentlemen:

We are in receipt of a copy of a letter from Mr. Breck Barton to Mr. Ron Carlson, dated January 21, 1991, and the application for transfer that was enclosed therewith for transfer of Rights Nos. 32-0102, 32-0073, 32-0085, 32-0077, 32-0086, 32-0078, 32-0087, and 32-0079. As Mr. Barton in that letter advised we would be doing, we are enclosing herewith two amended applications for transfer.

Because of the agreement with Wagoners to transfer portions of the rights sought to be transferred by our application of April 20, 1989, to lands of Wagoners', we have split the amended applications into two separate pieces; the first seeks to transfer Right No. 32-0067 and half of right No. 32-0090 to the Wagoner lands, and the second seeks to transfer portions of Rights Nos. 32-0090, 32-0093, 32-0068, 32-0061C, 32-0069, 32-0089, 32-0092, 32-0091, and 32-0101, held by Birch Creek Ranches, to lands of the D & D Enterprises under a lease arrangement with D & D.

Even though we have filed these as amended applications, we have enclosed a filing fee of $100.00 in case you conclude that further publication of notice is necessary. If we can provide additional information or assist in any manner, please

do not hesitate to call upon us. We understand that all involved are anxious to have this matter finalized with as much dispatch as possible.

Yours very truly,

Kent W. Foster

#6936.00/srs

Enclosure

cc: Mr. Ted Sorenson

# APPLICATION FOR PERMIT
# BIRCH CREEK RANCHES LLC
# NO. T3553 *AMENDED*
# NOTICE OF CORRECTION

| | |
|---|---|
| 06/30/1997 | ORDER RE AMENDED APPLICATION IN TRANSFER NO. 3553 |
| 07/17/1997 | Advertised statewide & Post Register |
| 07/24/1997 | Date of Protest 08/04/1997 |

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| 04/28/1997 | NOTICE OF PREHEARING CONFERENCE |
| 06/18/1997 | FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS/ BY GEORGE PETERSON |
| 06/18/1997 | NOTICE OF SERVICE / BY GEORGE C PETERSON |
| 07/25/1997 | D & D WITNESS LIST |
| 07/29/1997 | LAVAR NEWMAN WITNESS LIST |
| 05/08/1997 | SERVICE LIST / BY KARL J. DREHER |

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RECEIVED
AUG 1 5 1997
Department of Water Resources
Eastern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

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| IN THE MATTER OF AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093, 32-00068, 32-00061C, 32-00069, 32-00089, 32-00092, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | MOTION BY PROTESTANT D&D ENTERPRISES, INC. FOR PARTIAL SUMMARY JUDGMENT |

D&D Enterprises, Inc., by and through its attorneys of record, joins with protestant Lavar Newman in moving for partial summary judgment in this matter on the issues of:

a. Whether the change in point of diversion constitutes an enlargement of applicant's right;

b. Whether the losses in the reach between the original points of diversion and the proposed new point of diversion should be apportioned on an incremental or proportional loss basis.

D&D moves the hearing officer for a judgment that the change in point of diversion is an enlargement and that if the change in point of diversion is allowed, the losses in the reach should be apportioned on a proportional basis between Birch Creek Ranches, Lavar Newman, and D&D. This motion is based on D&D Enterprises, Inc.'s Memorandum in Support of Motion for Summary Judgment, submitted herewith, the Memorandum of Lavar Newman previously

submitted, and the Hearing Transcript of the hearing before Norman C. Young on April 16 and 17, 1990, which is already a part of the record in this matter.

DATED this 15th day of August, 1997.

PETERSEN, MOSS, OLSEN, CARR
ESKELSON & HALL

Wm. Charles Carr

**CERTIFICATE OF SERVICE**

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on the 15th day of August, 1997, I served a true and correct copy of the foregoing document on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered as defined by Rule 5(b), I.R.C.P.

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| IN THE MATTER OF AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093, 32-00068, 32-00061C, 32-00069, 32-00089, 32-00092, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | **D & D ENTERPRISE, INC.'s MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** |

I.

## BACKGROUND

Birch Creek Ranches seeks to change the point of diversion for several water rights it has acquired on Birch Creek. One of the issues which the Department of Water Resources must decide in determining whether to grant the application is: If the application is approved, what amount of water will Birch Creek Ranches be entitled to divert at its new, proposed downstream point of diversion.[1]

[1]Another issue to be decided is whether a change in point of diversion constitutes an enlargement of use. This issue is discussed in the "Memorandum of Protestant Lavar Newman in Support of Summary Judgment" and will not be further discussed in this brief.

One of the keys to this issue is whether Birch Creek Ranches should proportionately share with the protestants all of the losses that occur in the reach of the stream between the old and new points of diversion; or whether Birch Creek Ranches should be given a free ride, i.e., whether their water should be allowed to "ride on top" of the other water being transported down the stream bed, so that only D&D Enterprise, Inc.'s ("D&D") water and Lavar Newman's ("Newman") water suffers seepage and other stream bed losses.

II.

## INTRODUCTION TO THE ISSUES

Birch Creek Ranches has proposed that it be given such a free ride, being charged only with the "incremental loss" that supposedly occurs solely because of the increase in the stream flow with change in point of diversion to several miles downstream. In a hearing before the Idaho Department of Water Resources on April 17 and 18, 1990, Birch Creek Ranches propounded this incremental loss approach and presented data and calculations which purported to show an incremental loss of 1.6 cfs. D&D and other protestants opposed this approach for several reasons, among them being: (a) the law and practice in Idaho require a proportional sharing of all the losses in the reach; (b) allowing Birch Creek Ranches a free ride is manifestly unfair and inequitable; (c) an accurate determination of incremental losses has not been determined and will be almost impossible to determine; (d) a change in departmental policy from proportional to incremental losses will create chaos, make the administration of water almost impossible, and will destroy the priority system; and (e) the data and resulting calculated incremental loss presented by the applicant's expert were inacurate, unreliable and in error.

It is the position of protestants D&D and Newman that **all** of the water being transported in the reach between the old and new diversion points is going to suffer loss. That is, if the

"Simmons water" could be tagged, dyed, or otherwise distinguished, it would clearly be seen that the same percentage of the Simmons water would be lost by leakage, etc. as would the water of D&D and Newman.[2] The concept of the Simmons water "riding on top" of the other water and being transported by the other water, is simply a fiction and is contrary to reality. What Birch Creek Ranches is seeking is a "free ride" on the water conveyance system -- that reach which transports the water of Birch Creek Ranches, D&D, and Newman. Applicant in essence argues that since D&D and Newman were using this water conveyance system first, their water should plug up all the holes in the system so that when Birch Creek Ranches later decides it wants to also use the conveyance, it can do so without suffering loss. Applicant wants to ride the train without paying hardly any of the operating costs of the railroad!

It is obvious that there are factual issues remaining as to what the incremental loss in the reach actually is. However, believes that most of the controversy can be resolved through partial summary judgment. The hearing officer can determine, as a matter of law, that losses should be allocated on the basis of a proportionate share (i.e., pro rata, depending on the amount of water being transported down the reach), rather than on an incremental loss theory. There are several separate bases for reaching this conclusion, including: (a) pro rata sharing of losses is required by Idaho law; (b) Idaho Department of Water Resources' (IDWR) policy and practice requires a proportionate sharing of **all** the losses; (c) incremental losses have not been and can not be reliably determined; and (d) apportioning only incremental loss to Birch Creek Ranches is manifestly unfair. If the hearing officer determines that **any one** of these bases is correct,

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[2]Dr. Brockway, applicant's expert, testified that the water could not be segregated or distinguished. (Hearing Transcript, Brockway Testimony, p. 140)

then partial summary judgment can and should be entered that Birch Creek Ranches must share proportionately in all losses in the reach. The arguments for these bases are set forth below.

III.

**PRO RATA SHARING OF LOSSES IS THE LAW IN IDAHO**

While there does not appear to be much case law in Idaho on the issue of apportionment of losses when a point of diversion is sought to be changed, what case law there is speaks clearly of the requirement that the losses be apportioned between the users on a pro rata or proportionate basis, and not on some incremental theory as petitioners argue should be applied.

The Idaho Supreme Court in *Cronwall v. Talboy,* 45 Idaho 459, 262 P. 871 (1928), set forth the law which governs in this case. In *Cronwall*, like the instant case, the issue was the extent to which one of several users of a ditch should have to share in the evaporative and seepage losses in the ditch. The case there was stated as follows:

> Theretofore the loss caused by seepage and evaporation had been borne by each user according to the distance of his individual laterals from the point of diversion of the waters of the main ditch from the natural stream. Under the new system the total average loss for the entire ditch was estimated, and this was then apportioned to each user according to the amount of water he used and regardless of the distance of his point of diversion from the head of the ditch.

262 P. at 872. The Idaho Supreme Court held that each user of the ditch should bear that loss which he actually suffered. The Court stated:

> The joint use of the common conduit does not vary the legal consequences which flow from the possession of these several water rights. These remain exactly the same as though the fourteen users had constructed fourteen separate ditches in which to carry their water from Mann creek to their respective lands.
>
> One of these consequences is the right of the appellant to have diverted from Mann creek the exact amount of water allotted to him by the decree [citation], and to have this same amount of water delivered to his land, *less only the losses which have occurred between the point of diversion and the point of delivery.* His use jointly with the others of a large ditch should neither reward nor penalize him or the other users of the ditch by giving him more or less water than he would

> have received had he constructed a separate ditch. *It is true that in using a joint ditch the waters of the users below him are of assistance in carrying his water to his land, but likewise his water assists in carrying theirs.*
>
> No statute authorizes the method of distribution employed by the respondents, and we therefore conclude that the method in use by the water master in apportioning losses over the entire ditch is an impairment of appellant's rights and without justification and illegal. *Each user must bear the loss of water from seepage and evaporation only between the point where it is diverted from the creek and the point where it is delivered to him from the main ditch.*

262 P. at 872-73 (emphasis added).[3] *Hale v. McCammon Ditch Co.*, 72 Idaho 478, 244 P.2d 151, 158 (1952) says the same thing: "Seepage and evaporation losses . . . must be proportionately borne by all water users."

While *Cronwall* and *Hale* dealt with the allocation of losses among the users of a private ditch, there is no reason to distinguish this result when the question is the allocation of losses among those who are transporting their water down a jointly-used natural channel.[4] The principle is the same--each user should bear his share of the actual total losses from evaporation and seepage. There are no cases which would make this rule of law inapplicable in the instant matter. Because Birch Creek Ranches seeks to change the point of diversion of the "Simmons water" and desires to utilize Birch Creek and the new Reno Ditch to transport this water, Birch Creek Ranches therefore must share proportionately in all the losses that occur as the water is transported to the new point of diversion. As pointed out in *Cronwall*, applicants' legal

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[3]The Oregon case of *Little Walla Walla Irrigation Union v. Finis Irrigation Co*, 125 P. 270, 271 (Or. 1912) supports this same precept: "There is no testimony as to the amount of loss from these causes, but in an ordinary ditch, where the distribution of water to users begins at its head and the length of the ditch is only one, two, or three miles, the per cent of loss is small, and *should be shared proportionately by all.*" (emphasis added)

[4]The stream bed of Birch Creek, in this case, is very much akin to a private ditch, since it is essentially being used solely to transport the water of the applicants and the protestants. There is no other water left over and the natural stream terminates in a distribution to the parties herein.

consequence would be the same as if its water was the only water being carried in Birch Creek--the amount of water to be delivered at the new point of diversion must be reduced by its proportionate share in the evaporative and seepage losses occurring in the creek and the ditch.

This legal concept of fair apportionment of losses between users, whether in a natural or man-made watercourse, has been codified in Idaho Code, Section 42-105, which provides in part:

> The water to which a person may be entitled by reason of valid permit or license . . . heretofore established by diversion and application to beneficial use . . . may be turned into the channel of another stream and mingled with its water, and then reclaimed; and water may be turned into any ditch, natural channel or waterway from reservoirs or other sources of water supply . . . but in *reclaiming the water so mingled*, or diverting water in lieu thereof from any such stream, creek, river or tributary, the amount of water to which prior appropriators may be entitled *shall not be diminished*, and *due allowance shall be made for loss by evaporation and seepage.* (emphasis added)

While it is true that we are not here dealing with water which is being transferred from one stream to another, the principle is the same. We are dealing with water which is being transferred from the Simmons' upstream properties back into Birch Creek and *mingled* with the waters of D&D and Newman before eventually being reclaimed at the new proposed point of diversion. As required by law, this action cannot diminish the water to which D&D and Newman are entitled and *due allowance must be made for losses due to evaporation and seepage,* as noted in *Cronwall.*

Section 42-105 was clarified by the Idaho Supreme Court in *Canyon View Irrigation v. Twin Falls Canal Co.*, 101 Idaho 604, 619 P.2d 122 (1980). While that case dealt specifically with powers of condemnation, the Court had some other important things to say regarding the concept of mingling and sharing of losses when such mingling occurs. "Essentially, commingling occurs when waters are mixed and later separated." 619 P.2d at 129.

The Court then pointed out that the **principle was the same whether a natural stream or a private ditch** was used for transporting the water in question: "I.C. Sec. 42-105 permits commingling of water. . . . The section does not discuss commingling in canals. *This omission is not significant.*" 619 P.2d at 129 (emphasis added).

The Court then noted as follows:

> The record indicates that [appellant] will remove its water, *less any transmission loss,* at the end of [respondent's] canal. . . . The party who undertakes to operate the canal is entitled to a pro-rata contribution for operation and maintenance costs.

619 P.2d at 128 (emphasis added).[5]

Thus, while the appellant was entitled to the use of the canal for transporting its water, commingling it with the water of the respondent, it had to share pro rata in the transmission losses (and the operation and maintenance of the canal). It was not entitled to "ride on top of" respondent's water, as Birch Creek Ranches seeks to do here.

Viewed in the context of the instant case, both Idaho statutory and case law require that if Birch Creek Ranches is to change its point of diversion by transporting the original Simmons' upstream right to some point of diversion downstream, it must share proportionately with D&D and Newman the losses which occur in the reach of the stream between the old and new points of diversion. Birch Creek Ranches, by law, is not entitled to a "free ride."

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[5]*See also McGlochlin v. Coffin,* 61 Idaho 440, 103 P.2d 703 (1940) where a prescriptive water right is reduced in quantity by the amount of seepage and evaporation which occurred from the point of discharge of drains into Silver Creek to the point of diversion. The Court said, for example: "the flow of each drain, where it empties into Silver Creek, has been and is the measure of the quantity of water to which appellants are entitled *less loss in transmission.*" 103 P.2d at 706 (emphasis added).

IV.

## IDAHO DEPARTMENT OF WATER RESOURCES' POLICY REQUIRES THAT THERE BE A PROPORTIONATE SHARING OF STREAM LOSSES

1. **The IDWR has historically required that stream losses be shared proportionately in circumstances such as the instant case.**

In the prior hearing before Norman C. Young, hearing officer, on this matter, Ronald Carlson, Regional Manager for the Department of Water Resources, testified as to the State's policy regarding apportionment of stream losses:

> Q. The past history of the department, Mr. Carlson, regarding transfers of water, with specific reference as to losses that would be occasioned by the transfer of water due to a bed loss, can you tell me what the policy of the department has been?
>
> A. I believe the historic position of the department has been to impose whatever losses -- whatever percentage losses the other -- well, whatever percentage losses occur in the stream channel that would have an effect on other water users -- to impose those kind of losses on the right that's being transferred.
>
> Q. And why has that been the policy?
>
> A. Oh, I think there are a number of reasons. Probably one of the largest reasons is that it gives something that's administrable. By having everyone take a proportionate share of the loss you have -- whatever losses occur in the stream channel are still apportioned among all the water users that take water in the same general area.

Hearing Transcript, Carlson Testimony, pp. 292-93.[6] Mr. Carlson reiterated this policy later

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[6]With regard to the testimony of Ron Carlson regarding department policy, the following testimony was given by Jack Barnett:

> Q. Mr. Barnett, do you have an opinion regarding the policy expressed by Ron Carlson of the department in assessing a proportionate share of the transmission loss to all water users whose waters pass over the area in which a loss may occur?
>
> A. Yes, I think that's an appropriate policy.

in his testimony. When ask if allocating only the incremental loss to Birch Creek Farms was appropriate, he answered:

> A. No. Because that's not the entire loss.
>
> Q. You mean the entire increase -- or incremental increase is not the entire incremental increase?
>
> A. It's not the entire loss those rights are subject to in running that water from where it's now used down to the point of diversion.
>
> Q. That's what I've been asking you to assume, Mr. Carlson, is that we can quantify the entire loss.
>
> A. If you can quantify the entire loss, that's what they should be subject to.

Hearing Transcript, Carlson Testimony, p. 317.

When ask if he could recall cases where proportionate losses had been shared, Mr. Carlson testified that imposing a proportionate share of losses on a water right transferred downstream had been the practice of the department. He referred to one specific instance and indicated that there were others but that he could not recall them specifically.[7]

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> Q. Why do you believe so?
>
> A. Well, to do otherwise, as I might recall back to days when I was involved in the administration of water resources in Utah and Idaho, would have created utter chaos in some areas and would place on all of the water users in a given system in some cases some very heavy burdens with respect to regulation and calculation. And so to try to determine, as I believe you would have to in this case, an incremental loss at various periods of time would be very burdensome and very impractical. And so I think that it's important that an agency come forward with a policy that's practical. Secondly, I personally find some equity in allowing and asking all to share equally in losses that are associated with conveyance systems.

Hearing Transcript, Barnett Testimony, pp. 244-45.

[7]*See* Hearing Transcript, p. 305, lines 18-22, and p. 307, lines 9-10.

Mr. Carlson also later testified that the incremental loss approach had never even been considered by the department. (Hearing Transcript, p. 312) He then testified as to the effect of apportioning to Birch Creek Ranches only the incremental loss, and not a pro rata share of the total bed losses:

> Q. If the transfer were approved with only the one point six cfs loss, are we not then telling the other appropriators in the creek that their diversions at their respective points of diversion are bearing a significantly greater proportion of the bed loss than the new irrigator or, that is, the applicant who is proposing to change his point of diversion to literally the same point that those downstream users are using?
>
> A. Well, yeah, I'm sure that's true.
>
> Q. That means that the water that Wildings, D and D,. and to some extent Wagoner is bearing much more of a burden for the bed loss than would the waters sought to be transferred by Birch Creek Ranches?
>
> A. Yeah, I'll say that's true.

Hearing Transcript, Carlson Testimony, p. 313.

Don Shinton, the Birch Creek watermaster, also testified that the apportioning the stream loss proportionally has always been what has been done.

> A. I would stay with that recommendation if we stay with the procedure and practice of transfers as we always have. And I've been involved in a lot of transfers. **It's always been the policy that if someone moves downstream that they bear the proportionate loss that the other users take to move that water downstream.** And that's happening at Camas Creek. It's happening at Medicine Lodge. It's happening a lot of places.

Hearing Transcript, Shenton Testimony, p. 273 (emphasis added).

2. **The "incremental loss" approach proposed by Birch Creek Ranches would be difficult, if not impossible, to administer.**

The watermaster who will be charged with the administration of whatever is ultimately decided regarding apportioning losses, has testified that unless an accurate, specific, fixed number can be and is established, use of the incremental loss approach could not be administered. (Shenton Testimony, p. 230)[8] However, neither Mr. Shenton nor Mr. Carlson believed that an incremental loss had been or could be accurately established for Birch Creek.

Mr. Carlson had several comments regarding Birch Creek Ranch's effort to establish incremental losses:

> Q. Does the department recognize the difficulty of determining and administering transfers that involve a theory of an alleged incremental loss?
>
> A. Yeah, I -- I think we recognize the difficulty in doing that.
>
> Q. How difficult would it be for the department to change its policy at this time and adopt a new policy, as apparently is suggested by the applicant, that would state in any transfer application the department will only consider the incremental loss in determining whether or not to approve the transfer?
>
> A. Well, I think the department's position would have to be that we certainly don't want to cause unreasonable restrictions on somebody's ability to transfer the water right. But the department is also charged with assuring that there is not injury to other water users as part of that transfer process. So I suspect that you could have a condition where, you know. maybe a -- if you had enough information to charge an incremental loss if no one else is injured, perhaps it could be done.

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[8]Mr. Shenton further testified that this would have to be a set percentage loss for **each** right with a different priority, so as to arrive at a new quantity for **each separate right**. Hearing Transcript, p. 257.

Q. If the department were to suddenly change its policy, do you believe that it would result in an increase in hearings with the department and potential litigation amongst water users?

A. I don't believe that change would ever be a policy. But I'm confident that would increase litigation if that were -- if that were the general position the department took.

Q. And as to changes that have already been approved, would it increase the potential for additional litigation from applicants coming back and wanting to re-adjudicate in essence their transfer application under a new theory that would allow the incremental loss as opposed to the proportionate loss?

A. I don't know that I can answer that.

Hearing Transcript, Carlson Testimony, pp. 293-94.

As testified to above, and as will be apparent from the testimony that follows below, in order to utilize the incremental loss approach, the stream would either have to be much more consistent than it is or else there would have to be an incredible amount of data collected over widely varying conditions of seasonal variations, temperatures, stream flows, etc., in order to determine the appropriate incremental loss to utilize as conditions changed. Even then, the administration of the water rights would be a nightmare for the watermaster. It is obvious why the IDWR has chosen to utilize the proportionate loss method in allocating losses between users.

IV.

## THE INCREMENTAL LOSSES IN BIRCH CREEK HAVE NOT YET BEEN RELIABLY DETERMINED, NOR CAN THEY BE

### 1. Birch Creek is so irratic that a one-time experiment is insufficient to accurately determine incremental losses.

The evidence is uncontroverted that Birch Creek is a very irratic stream, with widely varying losses.

Q. Does the department recognize that the Birch Creek stream is very erratic in its bed losses?

A. Yes.

Hearing Transcript, Carlson Testimony, p. 294. Don Shenton said the same thing:

> Birch Creek -- the reason I recommended a monitoring system is because Birch Creek every day you look at it gives you something different as to loss. It's such an erratic damn stream, most erratic stream that I've ever gotten involved with.

Hearing Transcript, Shenton Testimony, p. 274.

Mr. Carlson also stated the following regarding his concerns about the incremental loss theory:

> A. . . . So in a perfect world that you're talking about, if that's the only thing that we're -- you know, if the only loss that we had in the stream -- and we had a stream that didn't fluctuate, didn't have diurnal fluctuations and gains and losses that are not quantified, then perhaps we could make a more fair -- a more fair process than just taking a percentage pro rata loss and transferring downstream as far as the applicant is concerned.

Hearing Transcript, Carlson Testimony, p. 311.

Mr. Shenton also testified that on the basis of measurements made in 1989, the bed losses in Birch Creek over the reach in question varied from 26% to 44% in just one year! (Hearing Transcript, Shenton Testimony, p. 233, *and see* pp. Shenton Testimony 235-37 and the testimony of Jack Barnett at pp. 342-343.)

It is clear from the fact that Birch Creek has such varying losses, that a one-time measurement of incremental losses, even if they were correctly measured and calculated, could not be valid for all times and circumstances. In order to have such a valid number, one would have to develop an extensive matrix of variables, with measured and calculated incremental losses for each set of varying circumstances. Obviously, this has not been done and would be very expensive and time consuming, if it could be done at all.

**2. There is a serious question as to the validity of Birch Creek Ranche's experiment to determine incremental loss.**

In addition to the fact that the erratic nature of Birch Creek invalidates the one-time experiment of incremental loss measured and calculated by Dr. Brockway, the accuracy and correctness of Dr. Brockway's measurements, calculations and conclusions were seriously placed in doubt by the testimony of other witnesses. Thus, while there is a question of fact as to what the incremental loss actually was on the day of Dr. Brockway's experiment, there is no doubt that there is a serious question as to Dr. Brockway's results. Combined with the fact that the stream is so erratic as to make a one-time measurement inadequate, the fact that Dr. Brockway's results are by their very nature so susceptible to challenge by other experts, again makes it appropriate to rule that the much simpler, reliable, and fairer proportionate loss is the method to be used.

Don Shenton had some serious misgivings about the incremental loss approach generally and the one-time test of Dr. Brockway which was used to come up with the incremental loss.

> Q. Do you disagree with anything [that Dr. Brockway concluded]?
>
> A. Well, I disagree with the amount of water that was lost from the initial test, initial point, the two day test. . . . By making that calculation and subtracting that increase on the weir, it didn't work out one cubic foot -- it didn't work out one point seven. I think it worked out two point nine was my observation.

Hearing Transcript, Shenton Testimony, p. 225.[9] Mr. Shenton conducted his own tests in 1989 and concluded that the incremental loss in the reach from the Wagoner diversion to the Reno ditch was 37.5%! This is a far cry from the Brockway test and calculation which gave an

[9]*See* Shenton Testimony at pp. 246-50 regarding the Brockway tests.

incremental loss of about 9%.[10] Mr. Shenton also had problems with some of the assumptions Dr. Brockway made. For example: there were return flows to the creek from the Simmons water (p.234); variation in stream depth (p. 256); shape of the canal (p. 238); and existence of side channels (p. 238-39).

Perhaps the most telling testimony from Mr. Shenton was his testimony that if the point of diversion is transferred as requested by Birch Creek Ranches, with only the minimal incremental loss of about 1.6 cfs argued by petitioner, then the protestants will not receive the water they have historically received.

> Q. Can I conclude from that that if you had tried to deliver the seventeen point seven cfs of the Simmons rights -- or is it the eighteen point seven cfs Simmons rights -- that are the subject of this transfer to below the Birch Creek power plant during 1989 that you would have had to have cut some of the rights that you were delivering to upstream?
>
> A. Very definitely.
>
> Q. Can you quantify that at all?
>
> A. Downstream too.

Hearing Transcript, Shenton Testimony, pp. 268-69 (*And see* pp. 270-71).

Jack Barnett, a consulting hydrologist engineer and licensed professional engineer and

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[10]Dr. Brockway claimed his test showed an increase in bed loss of 1.6 cfs when stream flow at Blue Dome was increased by 18.7 cfs, or a loss of only 8.6%. Hearing Transcript, Brockway Testimony, p. 127. Protestants strongly disagree with Dr. Brockway's calculations and the conclusions he has reached. However, even if these are correct, the great disparity between his results and those of Don Shinton shows that incremental losses in Birch Creek are tremendously variable and cannot be the basis for an allocation of water rights at a changed point of diversion.

geologist (Hearing Transcript, Barnett Testimony, pp. 324 and 347[11]) also testified that Dr. Brockway's incremental loss approach was flawed.

> Q. . . . I would ask: are you in agreement with Dr. Brockway's conclusion that approximately one point six cfs loss be assessed on the theory of an incremental loss being an appropriate method of assessment of loss?
>
> A. No, I'm not.
>
> Q. Why are you not?
>
> A. Well, I don't believe that the test that was conducted upon which Dr. Brockway reached those conclusions was a very good test. I don't believe that his analysis of the data, be it that it's not all that good a test, is the analysis that I would make. And I believe that there is data available that can lead you to other conclusions, data that might even carry more weight than the one-day test that was conducted under Dr. Brockway's direction.
>
> Q. Do you feel that the length of Dr. Brockway's test was appropriate?
>
> A. No, I do not.
>
> Q. Why do you not?
>
> A. It takes a stream system such as this a period of time to adjust, a period of time for it to level out and for what we would call bank storage to reach some equilibrium. You need to observe the stream and its characteristics for a period of time at all measuring points so that you know that you're reaching stability. I heard Dr. Brockway talk about diurnal changes. I further heard him talk about problems with accuracies of measurements. And then he reached a conclusion that describe a number that was within his degree of stated error. I think that's not a conclusive test.
>
> . . . .

---

[11]Mr. Barnett's experience includes time as executive director of the Colorado River Basin Salinity Control Forum, executive director of the Western States Water Council, executive director of the Idaho Water Users Association, and deputy director of what is now the Idaho Department of Water Resources.

. . . .

Q. As a licensed professional engineer in Idaho and based upon your administrative experience as well as your consulting experience and schooling, would you be satisfied in extending the conclusions that Dr. Brockway did from his test to an entire irrigation season based upon a sample size the length of which was run by Dr. Brockway?

A. No, I would not.

Q. Why would you not?

A. Well, there are many variables that occur throughout a given season. The elevation of the water table beneath the stream in various reaches may be fluctuating, which may change the rate of discharge to or from the stream to the ground water body. There are periods of time when evaporation is greater. There are periods of time when phreatophytic evapotranspiration would be greater. None of those were tested. But further than that I've heard testimony that not only -- I'm not concerned so much about what I heard were very short periods of time of fluctuation almost hourly from witnesses, but I'm concerned about periods of time, not only monthly but seasonally and from year to year when the losses to the stream are changing; and I have no way of knowing whether that incremental loss changes in direct proportion, stays the same number, increases or decreases. I think the one-day sample was just not adequate.

Hearing Transcript, Barnett Testimony, pp. 345-47.[12]

Dr. Brockway admitted that somewhere in the measurements during his experiment he had lost 7 cfs and 4 cfs and could not account for them except perhaps in the inaccuracies of the measuring equipment. (Hearing Transcript, Brockway Testimony, pp. 132-135) And Dr. Brockway himself said that he would give his experiment a "C" grade. (p. 136)

---

[12]Mr. Barnett also testified that Dr. Brockway's conclusions failed to account for approximately five second feet of water as shown in his own data. Barnett testimony, pp. 348-49. He also testified: "I just don't think sufficient data has been collected to make a meaningful determination." (p. 361) "It's tough to measure that incremental loss. And I believe that the efforts made thus far indicate that it's a major task." (p. 355)

Given that Birch Creek Ranches' own expert and the other experts and witnesses have raised serious questions about the accuracy of the one-time measurements upon which Dr. Brockway based his calculations and conclusions, it is again evident that the incremental loss approach is seriously flawed and that, as a matter of law, it should not be used as a basis for allocating losses and water rights.

V.

**THE INCREMENTAL LOSS APPROACH WOULD BE MANIFESTLY UNFAIR**

This brief and the brief of Lavar Newman have already addressed the unfairness of utilizing an approach which would provide a free ride to an owner of water rights because he desires to move his point of diversion downstream. Mr. Barnett also had something to say about the relative fairness of incremental versus proportionate losses:

> Q. Would that shrink in your opinion be any incremental shrink, or would it be a proportionate shrink?
>
> A. I believe that there is equity in making it an equal share of loss with other users, and further from what I have heard I believe that that's the only practical way to administer it.
>
> Q. Why do you believe that a proportional shrink would be the most equitable way?
>
> A. Because I believe that no one has yet been able to determine the amount of loss, additional loss, that's brought about by bringing that extra water into the stream. I've looked at the numbers. I have estimates that are much higher than some of the numbers I've heard. I also believe that there is equity in having all share in losses associated with the maintenance system. It's tantamount to someone wanting to come into a canal system and arguing that they should not pay their proportional share with the other canal owners as to cost to maintain the canal, that they should only have to pay whatever it costs on top of that. And it seems there could be some gross inequities that result in my mind from those kind of arrangements.

Hearing Transcript, Barnett Testimony, pp. 337-38.

VI.

## CONCLUSION

From both a legal and historical view, it is undisputed that a pro rata sharing of stream bed losses by those transporting their water over such stream bed, has been the law and the practice in Idaho. It is also clear that a decision which would give one water right owner a "free ride" "on top" of the other water in the stream would be both manifestly unfair and inconsistent with existing law and practice. As a matter of law, the protestants' motion for partial summary judgment should be granted and the hearing officer should rule that all losses in the reach of Birch Creek between Simmons' original points of diversion and the proposed point of diversion should be shared proportionately by the owners of water rights being transported through this reach.

It is also clear that the proposed "incremental loss" approach is severely flawed because of the inadequate (and inaccurate) data which has been and which realistically could be gathered. Not only would such an approach be in violation of both law and equity, but it would be highly impractical to administer. Before such a scheme could be utilized, Birch Creek would require constant monitoring at several locations over an extended period of time, both when the upstream Simmons' water was and was not being diverted at its original diversion points, to determine the actual, varying, and appropriate incremental losses to be attributed to the Birch Creek Ranches' water. Anything less than this would be simply an inaccurate and unfair guess.

Finally, it is clear that, based on historical flows in Birch Creek, a transfer to the bottom of the reach of Birch Creek of approximately 17 cfs of water for Birch Creek Ranches, would

result in leaving the protestants D&D and Lavar Newman with much less water than they would have if the point of diversion remained as it has in the past.[13]

D&D respectfully requests that the hearing officer make a determination, as a matter of law, that all the water user in the reach in question must share proportionately in the stream losses over the reach.

Respectfully submitted this 15th day of August, 1997.

PETERSEN, MOSS, OLSEN, CARR
ESKELSON & HALL

George C. Petersen by WCC

George C. Petersen

Wm. Charles Carr

Wm. Charles Carr

## CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on the 15th day of August, 1997, I served a true and correct copy of the foregoing document on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered as defined by Rule 5(b), I.R.C.P.

---

[13]Jack Barnett has testified that there has been only a relatively small consumptive use (and hence loss) of water on the Simmons land, most of the water used eventually reaching the downstream users. This has resulted in everyone generally having water for their land. Such would not be the case, however, if the point of diversion is changed and Birch Creek Ranches retains a right to divert approximately 17 cfs at this lower diversion. There will then simply not be enough water for everyone. Although it is not an issue in this hearing, it is more than apparent that if Birch Creek Ranches is also awarded a significant amount of "saved water," then there won't be much, if any, water left for the protestants.

| Persons Served: | Method of Service |
|---|---|
| Peter R. Anderson, Esq.<br>Deputy Attorney General<br>1301 N. Orchard St.<br>Boise, ID 83720-0098 | (X) mail ( ) hand ( ) fax |
| Kent W. Foster, Esq.<br>HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.<br>P.O. Box 50130<br>Idaho Falls, ID 83405-0130 | ( ) mail (X) hand ( ) fax |
| Blair J. Grover, Esq.<br>GROVER & FAIRCHILD<br>215 Farnsworth Way<br>P.O. Box 36<br>Rigby, ID 83442-0036 | (X) mail ( ) hand ( ) fax |
| Breck H. Barton, Esq.<br>BRECK BARTON & ASSOC., P.A.<br>P.O. Box 100<br>Rexburg, ID 83440 | (X) mail ( ) hand ( ) fax |
| Norman C. Young<br>Idaho Dept. of Water Resources<br>1301 N. Orchard St.<br>Boise, ID 83706 | (X) mail ( ) hand ( ) fax |
| Ronald D. Carlson<br>Eastern Regional Manager<br>Idaho Dept. of Water Resources<br>900 N. Skyline Dr.<br>Idaho Falls, ID 83402 | (X) mail ( ) hand ( ) fax |

Wm. Charles Carr

R. Carlson

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE**

**STATE OF IDAHO**

| | | |
|---|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C., | ) | **REQUEST FOR SUBMISSION OF IDWR STAFF MEMORANDA** |
| and | ) | |
| IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT NO. 32-00101 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | ) | |

COPY

WHEREAS IDAPA 37.01.01.600 allows the Idaho Department of Water Resources' ("IDWR's") "experience, technical competence and specialized knowledge" to be used in the evaluation of evidence; and

WHEREAS IDAPA 37.01.01.602 allows the hearing officer to notice technical or scientific facts within IDWR's specialized knowledge, including agency staff memoranda and data; and

WHEREAS the hearing officer in this matter is not an employee of IDWR and has no independent technical or scientific expertise;

THEREFORE the hearing officer requests IDWR to present staff memoranda or other data compilations evaluating the above-captioned matters, which could include, without limitation:

1. A G.I.S. analysis of the rights to be transferred utilizing N.A.P.P. photography;

2. The claims filed with IDWR in the Snake River Basin Adjudication for the water rights to be transferred;

3. A G.I.S. map showing the current place of use as described by the applicant, and the point of diversion and transmission facilities and place of use of the water right as it is requested to be changed.

Any such staff memoranda or data compilation should be submitted to the hearing officer on or before August 29, 1997, and served upon the parties to this matter. IDWR would be required to make relevant staff available for cross-examination at the hearing set for September 23-24, 1997, pursuant to IDAPA 37.01.01.602.

Dated this 30th day of July, 1997.

Peter R. Anderson

PETER R. ANDERSON
Hearing Officer

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of July, 1997, I mailed a true and correct copy of the foregoing **REQUEST FOR SUBMISSION OF IDWR STAFF MEMORANDUM** to the following persons listed below by U.S. mail, postage prepaid and addressed as follows:

Norman C. Young
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN
& CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405

Blair J. Grover, Esq.
GROVER & ARCHIBALD
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George Petersen, Esq.
PETERSEN MOSS OLSEN
MEACHAM & CARR
485 "E" Street
Idaho Falls, ID 83402

Deborah Drew-Ellis
Legal Secretary

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

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| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | ) ) ) ) ) ) ) ) ) ) | WITNESS LIST |

COMES NOW the Protestant, LaVar Newman, by and through his undersigned attorney of record, Blair Grover, and states that he anticipates calling the following witnesses:

LaVar Newman

Mac Wagoner

Todd Simmons

Cleo Wilding

Don Shenton

Jack Burnett

Harold Jones

Representative from the U.S. Geological Survey

Jim Demordaunt

Bill Simmons

Ted Sorenson

George Woodie

Jack Barraclough

Ron Carlson

Representative from the U.S. Farm Services Agency

DATED this 25 day of July, 1997.

BLAIR GROVER
Counsel for Lavar Newman
P.O. Box 36
Rigby, ID 83442
(208) 745-6653

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Rigby, Idaho; that I served a copy of the foregoing document or pleading upon the following person(s) at the addresses below their names either by hand delivering, by facsimile transmission (Fax), or by mailing said document in the United States mail with the correct postage thereon, a true and correct copy thereof this 25 day of July, 1997.

| Served: | | |
|---|---|---|
| | Kent W. Foster, Esq.<br>P.O. Box 50130<br>Idaho Falls, ID 83405 | [X] Mail<br>[ ] Hand Delivery<br>[X] Facsimile |
| | George Petersen, Esq.<br>485 "E" Street<br>Idaho Falls, ID 83402 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |
| | Peter R. Anderson<br>Hearing Officer<br>1301 North Orchard<br>Boise, ID 83706-2237 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |
| | Breck H. Barton, Esq.<br>P.O. Box 100<br>Rexburg, ID 83440 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |
| | Idaho Department of Water Resources<br>900 N Skyline<br>Idaho Falls, ID 83402 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |

BLAIR GROVER

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

# MEMORANDUM

RECEIVED
MAY 0 8 1997
Department of Water Resources
Eastern Region

**To:** Governor Philip E. Batt

**Date:** May 2, 1997

**From:** Karl J. Dreher

**cc:** Service list for No. 32-00061C et al
Service list for Nos. 32-07128 & 32-07136
Representative JoAn Wood
Ron Carlson
Don Shenton

**Subject:** Pending Water Rights Issues Involving Birch Creek Ranches & Sorenson Engineering
Constituent Affairs Tracking Memorandum No. 19505

As you requested, I have reviewed the concerns expressed in a letter dated February 18, 1997 which you received from Mr. Ted S. Sorenson of Birch Creek Ranches and Sorenson Engineering. Mr. Sorenson believes that the Department of Water Resources (the "Department") is biased against him and has asked that a hearing officer from outside the Department be appointed to hear the water right matters pending before the Department. The concerns of Mr. Sorenson involve applications he filed with the Department to amend two water right permits for hydropower purposes and to transfer numerous irrigation water rights involving water diverted from Birch Creek. I received a formal petition from Mr. Sorenson's attorney requesting that an outside hearing officer be appointed for these protested applications, and I made the requested appointment on March 7, 1997.

Since protests have been filed against these applications, and I will have to make determinations regarding these applications following hearing, I am obligated to refrain from discussing the merits of Mr. Sorenson's allegations. However, the following background information may be useful to you in understanding the nature of the disputes involved.

The water rights generally referred to by Mr. Sorenson include decreed water right nos. 32-00061C, 32-00068, 32-00069, 32-00073, 32-00077, 32-00078, 32-00079, 32-00085, 32-00086, 32-00087, 32-00089, 32-00090, 32-00091, 32-00092, 32-00093, 32-00101, and 32-00102, together with protested applications for water right permits numbered 32-07128 and 32-07136. The Department's involvement with Mr. Sorenson regarding these water rights has been extensive as summarized by the following chronology of events:

- September 8, 1982 - Birch Power Company ("Sorenson") filed application for permit number 32-07128 proposing the diversion of 45 cfs of water from Birch Creek to be used for hydropower purposes. The application was protested by several entities.

- January 3, 1984 - Sorenson filed a second application (permit number 32-07136) proposing the diversion of an additional 30 cfs of water from Birch Creek for hydropower purposes. This application also was protested by several entities.

- April 5, 1984 - The Department conducted a hearing on both applications.

- March 26, 1985 - The Department approved both applications with conditions and limitations, including a requirement for a bypass flow of 5 cfs to remain in Birch Creek below the diversion into Sorenson's power canal.

- June 26, 1986 - After the Department's decision approving both applications was appealed to district court by one of the protestants, the district court upheld the Department's decision.

- April 19, 1989 - Birch Creek Ranches (also "Sorenson") filed application for transfer number 3553 involving nine water rights which were used for the irrigation of land above Blue Dome. The applications sought to change the place of use to lands downstream from Sorenson's power plant and were protested by several entities.

- September 18, 1989 - Sorenson submitted proof of beneficial use of water for permits numbered 32-07128 and 32-07136. Shortly thereafter, the Department initiated the process for issuing licenses for the permits.

- April 17 & 18, 1990 - The Department conducted a hearing on the protested application for transfer number 3553 but at the request of the parties, the final decision was delayed. This delay allowed Sorenson and one of the protestants to enter into a settlement agreement. The settlement agreement resulted in Sorenson amending application for transfer number 3553 on February 12, 1991, and in the filing of a separate application for transfer by the protestant.

- May 1, 1990 - Sorenson filed applications for amendment seeking to have the 5 cfs bypass flow requirement for approved permits numbered 32-07128 and 32-07136 eliminated. The applications for amendment were protested.

- May 17, 1990 - With the consent of the protestants, the Department granted Sorenson interim approval to use the irrigation water rights (involved in application for transfer number 3553) below Sorenson's power plant as requested in the protested application for transfer.

- November 6, 1991 - The Department advised Sorenson that it could not issue licenses for water rights numbered 32-07128 and 32-07136 until the protested amendments were resolved.

- July 10, 1992 - At the request of Sorenson and the protestants, the Department delayed the hearing on the applications for amendment to water rights numbered 32-07128 and 32-07136 and on the application for transfer number 3553 until more was known about the failure of a liner placed by Sorenson and others in the channel of Birch Creek.

- Spring of 1994 - Sorenson lost access to the place of use downstream of his power plant for which application for transfer number 3553 had been filed and interim approval had been granted. The need for a hearing on the application for transfer was therefore moot.

- July 5, 1995 - Sorenson's attorney advised the Department that until Sorenson was able to acquire a place of use downstream from his power plant that "it will accomplish little to try to process most, if not all of the pending applications."

- September 25, 1995 - The Department advised Sorenson through his attorney as follows regarding the processing of the protested applications -

  i. Sorenson would need to withdraw or amend application for transfer number 3553 in connection with proposed changes to the place of use for his irrigation water rights.

  ii. The Department would continue to hold the applications to amend water right permits numbered 32-07128 and 32-07136 at Sorenson's request to allow all the protested matters to be combined into one hearing.

- April 2, 1996 - Sorenson filed an amended application for transfer number 3553 claiming to have acquired another downstream place of use for the irrigation water rights. Notice of the amendment was published and renewed protests were filed with the Department in January 1997.

- February 21, 1997 - Sorenson's attorney filed a motion for blanket disqualification of all employees of the Department from acting as hearing officer for the protested applications. IDAPA Rule 37.01.01412 (Procedure Rule 412) requires the automatic disqualification of all employees of the Department, except its director, upon timely request of any party.

- March 7, 1997 - The Department designated Mr. Peter Anderson as the hearing officer. Mr. Anderson is a Deputy Attorney General and is not an employee of the Department. A hearing on the protested applications is being scheduled.

In closing, I want to respond to the reasons why Mr. Sorenson believes the Department has been biased and has discriminated against him. As noted above, the Department can not issue licenses in connection with Mr. Sorenson's power plants until the applications for amending the permits, which were filed by Mr. Sorenson, have been resolved. Given the history summarized on the previous pages of this memorandum, I do not believe Mr. Sorenson should conclude "No action has been taken" or the permit amendments "have yet to be processed." Furthermore, the delays in scheduling hearings were the result of Mr. Sorenson's request for time to seek resolution of the protests and to allow the protested applications for transfer to be combined into the same hearing as the protested applications for amendment of the permits.

Regarding the question of bed loss, the Department has not made a decision on the question of bed loss. The watermaster for Water District 01, Mr. Ron Carlson, does not have the authority to make a final determination of this issue. Rather, this will be an element of the decision that will be issued by the Department following hearing. By letter from Mr. Carlson to the watermaster, dated June 13, 1995, the Department did authorize the "test to actually determine what the bedloss [sic] would be" as requested by Mr. Sorenson provided that other water rights would not be injured by the test or with agreement by those whose water rights would be affected.

On February 24, 1997, Mr. Sorenson submitted an application to the Department for a permit seeking to appropriate 17 cfs of "saved" or "salvaged" water in Birch Creek in exchange for ceasing ground water diversions from certain irrigation wells. The Department advertised this application on April 3 and again on April 10, 1997. Like Mr. Sorenson's other applications, protests against this latest application have been filed with the Department by several entities.

In the meantime, I have been contacted by Representative JoAn Wood who requested that I meet with some of her constituents who are concerned about Mr. Sorenson's actions. If her constituents are protestants in the administrative hearing process or intend to discuss substantive issues regarding Mr. Sorenson's pending applications, it would be inappropriate for me to meet with them regarding Mr. Sorenson's actions until after the Department's administrative process is complete and the Department has issued its final decisions.

I believe the Department of Water Resources has cooperated with Mr. Sorenson in processing his various water rights transactions and allowing him time to seek negotiated solutions to the objections raised by those who believe their water rights would be injured. Mr. Sorenson correctly points to the lengthy period of time it has taken to resolve these matters. However, Mr. Sorenson has changed his proposals several times which has compounded the time requirements. These changes have not been proposed because of any request or interference from the Department. It does appear that all of Mr. Sorenson's applications are ready for further administrative action, and this action will be promptly taken.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

| | | |
|---|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | ) | WITNESS LIST |

COMES NOW the Protestant, LaVar Newman, by and through his undersigned attorney of record, Blair Grover, and states that he anticipates calling the following witnesses:

LaVar Newman

Mac Wagoner

Todd Simmons

Cleo Wilding

Don Shenton

Jack Burnett

Harold Jones

Representative from the U.S. Geological Survey

Jim Demordaunt

Bill Simmons

Ted Sorenson

George Woodie

Jack Barraclough

Ron Carlson

Representative from the U.S. Farm Services Agency

DATED this 25 day of July, 1997.

BLAIR GROVER
Counsel for Lavar Newman
P.O. Box 36
Rigby, ID 83442
(208) 745-6653

RECEIVED
JUL 29 1997
Department of Water Resources
Eastern Region

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Rigby, Idaho; that I served a copy of the foregoing document or pleading upon the following person(s) at the addresses below their names either by hand delivering, by facsimile transmission (Fax), or by mailing said document in the United States mail with the correct postage thereon, a true and correct copy thereof this 25 day of July, 1997.

| Served: | | |
|---|---|---|
| | Kent W. Foster, Esq.<br>P.O. Box 50130<br>Idaho Falls, ID 83405 | [X] Mail<br>[ ] Hand Delivery<br>[X] Facsimile |
| | George Petersen, Esq.<br>485 "E" Street<br>Idaho Falls, ID 83402 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |
| | Peter R. Anderson<br>Hearing Officer<br>1301 North Orchard<br>Boise, ID 83706-2237 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |
| | Breck H. Barton, Esq.<br>P.O. Box 100<br>Rexburg, ID 83440 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |
| | Idaho Department of Water Resources<br>900 N Skyline<br>Idaho Falls, ID 83402 | [X] Mail<br>[ ] Hand Delivery<br>[ ] Facsimile |

BLAIR GROVER

RECEIVED
JUL 25 1997
Department of Water Resources
Eastern Region

George C. Petersen, Jr., Esq.
Wm. Charles Carr, Esq.
PETERSEN, MOSS, OLSEN,
CARR, ESKELSON & HALL
485 "E" Street
Idaho Falls, Idaho 83402
(208) 523-4650

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

| | |
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| IN THE MATTER OF AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093, 32-00068, 32-00061C, 32-00069, 32-00089, 32-00092, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | D & D WITNESS LIST |

Protestant D & D Enterprises submits the following as witnesses it may call at the hearing on this matter:

Jack Barraclough

Jack Burnett

Ron Carlson

Jim DeMordaunt

Roger DeMordaunt

Dan Kotansky and others from the U.S.G.S.

Lavar Newman

Steve Phillips

Jon Phillips

Bill Simmons

Todd Simmons

Mac Wagoner

Cleo Wilding

George Woodie

S.G. Landon

R.W. Ericksen

Marjorie Bare

Don Shenton

Ted Sorensen

Breck Barton

Representatives from See Ranches, Inc. (Messrs. Erickson and Arden Stewart)

Janice Millar, aka Janice Judy

Employees of ASCS Rigby office who have not yet been identified

Recent discovery has provided additional information which will probably lead to additional witnesses. Their names will be provided as soon as they have been identified.

DATED this 25th day of July, 1997.

PETERSEN, MOSS, OLSEN, CARR
ESKELSON & HALL

Wm. Charles Carr

## CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on the 25th day of July, 1997, I served a true and correct copy of the foregoing document on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered as defined by Rule 5(b), I.R.C.P.

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|---|---|
| Peter R. Anderson, Esq.<br>Deputy Attorney General<br>1301 N. Orchard St.<br>Boise, ID 83720-0098 | (X) mail ( ) hand ( ) fax |
| Kent W. Foster, Esq.<br>HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.<br>P.O. Box 50130<br>Idaho Falls, ID 83405-0130 | ( ) mail (X) hand ( ) fax |
| Blair J. Grover, Esq.<br>GROVER & FAIRCHILD<br>215 Farnsworth Way<br>P.O. Box 36<br>Rigby, ID 83442-0036 | (X) mail ( ) hand ( ) fax |
| Breck H. Barton, Esq.<br>BRECK BARTON & ASSOC., P.A.<br>P.O. Box 100<br>Rexburg, ID 83440 | (X) mail ( ) hand ( ) fax |
| Norman C. Young<br>Idaho Dept. of Water Resources<br>1301 N. Orchard St.<br>Boise, ID 83706 | (X) mail ( ) hand ( ) fax |
| Ronald D. Carlson<br>Eastern Regional Manager<br>Idaho Dept. of Water Resources<br>900 N. Skyline Dr.<br>Idaho Falls, ID 83402 | (X) mail ( ) hand ( ) fax |

Wm. Charles Carr

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RECEIVED
JUN 18 1997
Department of Water Resources
Eastern District Office
COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

| | | |
|---|---|---|
| IN THE MATTER OF AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093, 32-00068, 32-00061C, 32-00069, 32-00089, 32-00092, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | ) | NOTICE OF SERVICE |

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on the 17th day of June, 1996, I served the following on the persons listed below either by first class mail with the correct postage thereon, by causing the same to be hand delivered, or by facsimile machine process, as indicated below:

| Documents | Served |
|---|---|
| (a) Interrogatories (copy only) | ( x ) |
| (b) Request for Production of Documents (copy only) | ( x ) |
| (c) Request for Admission (copy only) | ( ) |
| (d) Answers to Interrogatories (original) | ( ) |
| (e) Response to Request for Production (original) | ( ) |

(f) Response to Request for Admissions (original) ( )

(g) Other:_____ ( )

_____ ( )

_____ ( )

Persons Served: Method of Service:

Peter R. Anderson, Esq. (✓) mail ( ) hand ( ) fax
Deputy Attorney General
1301 N. Orchard St.
Boise, ID 83720-0098

Kent W. Foster, Esq. (✓) mail ( ) hand ( ) fax
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
Idaho Falls, ID 83405-0130

Blair J. Grover, Esq. (✓) mail ( ) hand ( ) fax
GROVER & FAIRCHILD
215 Farnsworth Way
P.O. Box 36
Rigby, ID 83442-0036

Breck H. Barton, Esq. (✓) mail ( ) hand ( ) fax
BRECK BARTON & ASSOC., P.A.
P.O. Box 100
Rexburg, ID 83440

Norman C. Young (✓) mail ( ) hand ( ) fax
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706

Ronald D. Carlson (✓) mail ( ) hand ( ) fax
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

George C. Petersen, Jr.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on the 17th day of June, 1997, I served a true and correct copy of the foregoing document on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered as defined by Rule 5(b), I.R.C.P.

| Persons Served: | Method of Service: |
|---|---|
| Peter R. Anderson, Esq.<br>Deputy Attorney General<br>1301 N. Orchard St.<br>Boise, ID 83720-0098 | (✓) mail ( ) hand ( ) fax |
| Kent W. Foster, Esq.<br>HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.<br>P.O. Box 50130<br>Idaho Falls, ID 83405-0130 | (✓) mail ( ) hand ( ) fax |
| Blair J. Grover, Esq.<br>GROVER & FAIRCHILD<br>215 Farnsworth Way<br>P.O. Box 36<br>Rigby, ID 83442-0036 | (✓) mail ( ) hand ( ) fax |
| Breck H. Barton, Esq.<br>BRECK BARTON & ASSOC., P.A.<br>P.O. Box 100<br>Rexburg, ID 83440 | (✓) mail ( ) hand ( ) fax |
| Norman C. Young<br>Idaho Dept. of Water Resources<br>1301 N. Orchard St.<br>Boise, ID 83706 | (✓) mail ( ) hand ( ) fax |
| Ronald D. Carlson<br>Eastern Regional Manager<br>Idaho Dept. of Water Resources<br>900 N. Skyline Dr.<br>Idaho Falls, ID 83402 | (✓) mail ( ) hand ( ) fax |

George C. Petersen, Jr.

George C. Petersen, Jr., Esq.
PETERSEN, MOSS, OLSEN,
CARR, ESKELSON & HALL
485 "E" Street
Idaho Falls, Idaho 83402
(208) 523-4650

RECEIVED
JUN 18 1997
Department of Water Resources
Eastern District Office

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

| | |
|---|---|
| IN THE MATTER OF AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093, 32-00068, 32-00061C, 32-00069, 32-00089, 32-00092, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS |

FIRST SET OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS

TO: TED SORENSON d/b/a SORENSON ENGINEERING and BIRCH CREEK RANCHES, L.L.C., and their attorney of record, KENT W. FOSTER, ESQ. of the firm of HOLDEN, KIDWELL, HAHN & CRAPO

You are each required to answer under oath the following interrogatories within fifteen (15) days in accordance with the Idaho Rules of Civil Procedure. You are each required to make the requested documents available for inspection and copying at the offices of Petersen, Moss, Olsen, Carr, Eskelson & Hall, 485 "E" Street, Idaho Falls, Idaho at 10:00 a.m. on the 7th day of July, 1997.

## PRELIMINARY STATEMENT

A. When answering these interrogatories you are requested to furnish all information available to you, including information in the possession of your attorneys, investigators, employees, agents, representatives, guardians or any other person or persons acting on your behalf, and not merely such information as is known by you on personal knowledge.

B. If you cannot answer any of the following interrogatories in full, after exercising due diligence to secure the information to do so, so state, and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information or knowledge you have concerning the unanswered portions.

C. Each interrogatory is intended to, and does, request that each and every, all and singular, the particulars and parts thereof, be answered with the same force and effect as if each part and particular were the subject of, and were asked by, a separate interrogatory.

D. The term "anyone acting on your behalf" includes, but is not limited to, your representatives, attorneys, insurance carriers, investigators, expert witnesses and guardians, whether they be hired or appointed by you, your insurance carrier, your attorneys or their representatives, or a court of law.

E. The term "person" means and includes natural persons, corporations, partnerships, associations and any other kind of business or legal entity.

F. The term "document" means and includes any kind of written, typewritten or printed material whatsoever including, but without limitation, papers, agreements, contracts, notes, memoranda, correspondence, letters, telegrams, statements, books, reports, studies, minutes, records, accounting analyses, surveys, studies, transcriptions and recordings of which you have any knowledge or information, whether in your possession or under your control or

not, relating or pertaining in any way to the subject matters in connection with which it is used, and includes, but without limitation, originals, all file copies, and all other copies, no matter how or by whom prepared, and all drafts prepared in connection with such writings, whether used or not.

G. A request to describe documents shall be deemed to include a request for the following information with respect to said documents: (l) the nature and substance of the document with sufficient particularity to enable the same to be precisely identified; (2) the date, if any, which the document bears; (3) the date the document was sent; (4) the date the document was received; (5) the person or persons executing the document and the identity of all persons participating in the preparation thereof, if different from the persons executing it; (6) the person to whom the document is addressed; (7) any file number used in connection with the document; (8) the present location of the original or a legible copy of the document, and (9) the full name, present address and telephone number of the person or persons having possession, custody or control of each such original or legible copy.

H. A request to identify a person shall be deemed to include a request for the following information with respect to such person: (l) the person's full name; (2) the person's last known residence and business address; (3) the person's telephone number; and (4) the person's relationship to the parties to this lawsuit; and (5) the person's company or government agency affiliation at the date of the transaction referred to and the capacity in which the person was then serving said company or agency.

I. A request to describe oral communications shall be deemed to include a request for the following information with respect to each of said oral communications: (l) the date and place thereof; (2) whether said communication was in person or by telephone; (3) a description

of each person who participated in or heard any part of said communication; (4) the substance of what was said by each person who participated in said communication, and (5) a chronological description of all documents or recordings, summarizing, confirming or in any manner referring to said communication, in the manner described in paragraph G of this preliminary statement.

J. These interrogatories are deemed continuing. If after responding to these interrogatories, you acquire any information responsive thereto, you must file and serve supplemental responses containing such information.

INTERROGATORY NO. 1: Identify the name, address, telephone number and relationship of parties to this action by naming each person whom you intend to call as a witness (not experts referenced in Interrogatory No. 2) in support of the claim and/or claims the subject of the above captioned. Briefly summarize the subject matter, the facts, and data that each of said witnesses is expected to testify. Please attached copies of any reports prepared by each of said witnesses or make such available for inspection as provided herein.

INTERROGATORY NO. 2: Identify the name, address, telephone number of each person whom you intend to call as an expert witness (not witnesses referenced in Interrogatory No. 1) in support of the claim and/or claims the subject of the above captioned. Briefly summarize the subject matter, the facts, data, knowledge or information relied upon by each expert witness; further, the opinions as to which each of said expert witnesses is expected to testify; identify and/or summarize the subject matter, the facts, data, knowledge or information relied upon by said expert witness in support of his or her opinion or testimony and further

briefly summarize the testimony that each of said expert witnesses is expected to testify. Please attached copies of any reports prepared by each of said expert witnesses or make such available for inspection as provided herein.

INTERROGATORY NO. 3: Identify, with sufficient explanation to the end that each and every document which you intend or expect to introduce as an exhibit at the hearing and/or trial of the above captioned.

INTERROGATORY NO. 4: Identify each person and/or otherwise, who took aerial photos, photographs, or film footage pertaining to the claim of applicant's application and subsequent amendments thereto either of Birch Creek, the vicinity of Birch Creek, irrigated lands of D & D Enterprises, Inc., and/or LaVar Newman and/or any other areas that might be used for illustrative and/or in support of applicant's application and/or amendments thereto. Further, if there are any sketches, diagram, measurements or other graphic representation relating in any way to the matters which is or are the subject of this lawsuit, please make known said item and/or items, the location of same and for what purpose said item and/or items will support applicant's application and/or amendments thereto.

Please make available for inspection the data referred to above and further attach copies of all photographs, film footage, or other geographic representations or make them available for inspection as provided above.

INTERROGATORY NO. 5: Identify each person who participated in the investigation of claimant's claim the subject of the above referenced application and/or amendments thereto and briefly summarize their findings and conclusions.

INTERROGATORY NO. 6: Identify each person who gave a statement, report, memorandum or testimony pertaining to any issue involved in the applications the subject of the

above captioned; summarize said report and/or reports and further identify the person and/or persons currently having possession of said report and/or reports.

INTERROGATORY NO. 7: Identify each person who took a statement from or had a conversation with any of the parties, his and/or her agents or employees pertaining in any way to the matter, facts, findings and/or conclusion the subject of the above captioned. Identify each oral conversation, that said witness will be testifying to and further briefly summarize the general content of the testimony of said witness and/or expert with whom you have had an oral conversation and/or oral conversations with. Please attach copies of such written or transcribed statements which are in the possession or control of you or anyone acting on your behalf or make them available for inspection as provided above.

INTERROGATORY NO. 8: Identify each person who has performed any surveys, tests or experiments for your trial and/or hearing and further, briefly summarize the findings of each of said surveys, tests, and/or experiments conducted by said witnesses and his findings and conclusions. Please attach and identify all surveys, tests and experiments the subject of your response to Interrogatory No. 8 and/or make same available for inspection as provided herein.

INTERROGATORY NO. 9: Identify each person not heretofore mentioned who has any knowledge of facts relevant to the above captioned and summarize same.

INTERROGATORY NO. 10: List, describe, and briefly summarize the content of each document or other item of physical evidence you intend or expect to offer in evidence at the hearing and/or trial. Please attach copies of documents or make them and other items of physical evidence available for inspection as provided above.

REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1: Please provide all documents requested in Interrogatories No. 1 through 10.

DATED this 17th day of June, 1997.

PETERSEN, MOSS, OLSEN, CARR
ESKELSON & HALL

George C. Petersen, Jr.

**CERTIFICATE OF SERVICE**

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on the 17th day of June, 1997, I served a true and correct copy of the foregoing document on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered as defined by Rule 5(b), I.R.C.P.

| Persons Served: | Method of Service |
|---|---|
| Peter R. Anderson, Esq.<br>Deputy Attorney General<br>1301 N. Orchard St.<br>Boise, ID 83720-0098 | (✓) mail ( ) hand ( ) fax |
| Kent W. Foster, Esq.<br>HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.<br>P.O. Box 50130<br>Idaho Falls, ID 83405-0130 | (✓) mail ( ) hand ( ) fax |
| Blair J. Grover, Esq.<br>GROVER & FAIRCHILD<br>215 Farnsworth Way<br>P.O. Box 36<br>Rigby, ID 83442-0036 | (✓) mail ( ) hand ( ) fax |

Persons Served:

Method of Service

Breck H. Barton, Esq.
BRECK BARTON & ASSOC., P.A.
P.O. Box 100
Rexburg, ID 83440

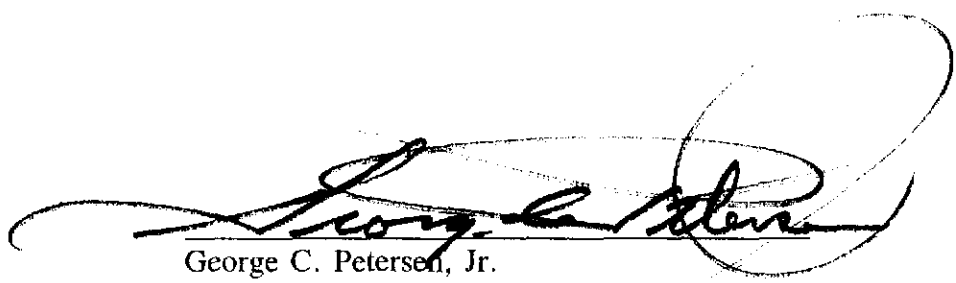
(✓) mail ( ) hand ( ) fax

Norman C. Young
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706

(✓) mail ( ) hand ( ) fax

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

(✓) mail ( ) hand ( ) fax



George C. Petersen, Jr.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

RECEIVED
APR 28 1997
Department of Water Resources
Eastern District Office

COPY

| | |
|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | **NOTICE OF PREHEARING CONFERENCE** |

The Department of Water Resources has scheduled this matter for prehearing conference as follows:

| | |
|---|---|
| Date: | Wednesday, May 21, 1997 |
| Location: | DEQ Conference Rm.<br>900 N. Skyline Drive, Idaho Falls, ID<br>Call (208)525-7161 for directions. |
| Time: | 9:00 a.m. |

This prehearing conference will be held for the purposes set forth in IDAPA 37.01.01.510 (Rule 510) and will be held informally according to IDAPA 37.01.01.512 (Rule 512). The Department's authority to hold hearings in this matter is based in I.C. § 42-222.

The prehearing conference will be conducted in a facility meeting the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the Department within ten (10) days prior to the prehearing conference.

DATED this 24th day of April, 1997.

Peter R. Anderson

PETER R. ANDERSON
Hearing Officer

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of April, 1997, I mailed a true and correct copy of the foregoing **NOTICE OF PREHEARING CONFERENCE** on the following persons listed below by U.S. mail, postage prepaid and addressed as follows:

Norman C. Young
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN & CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405

Blair J. Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442 745-6653

George Petersen, Esq.
PETERSEN MOSS OLSEN
MEACHAM & CARR
485 "E" Street
Idaho Falls, ID 83402

Deborah Drew-Ellis
Deborah Drew-Ellis
Legal Secretary

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

RECEIVED
JUN 3 0 1997
Department of Water Resources
Eastern Region

COPY

| | |
|---|---|
| IN THE MATTER OF THE AMENDED APPLICATION FOR TRANSFER NO. 3553 OF WATER RIGHTS NOS. 32-00090, 32-00093 32-00068, 32-00061C, 32-00091, 32-00101, 32-00102, 32-00073, 32-00085, 32-00077 32-00086, 32-00078, 32-00087, and 32-00079 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | ORDER RE AMENDED APPLICATION IN TRANSFER NO. 3553 |

On April 2, 1996, Applicant Birch Creek Ranches L.L.C. filed an Amended Application for Transfer of Water Rights on Transfer No. 3553 (Amended Application). Parts I and II of the Amended Application consisted of 55 pages, and included Attachments numbered 1 - 10. A copy of the Amended Application, with attachments is attached as Exhibit 1 to this Order.

Sometime prior to the advertisement of the Amended Application, personnel of the Department of Water Resources changed the Amended Application to accurately reflect the records of the Department of Water Resources. Transfer No. 3553 was advertised as the Amended Application was changed by Department personnel. The Department of Water Resources erred in changing the Amended Application. Transfer No. 3553 should proceed as originally filed by the Applicant.

The proceedings on Transfer No. 3553 are currently set for formal pre-hearing conference in Idaho Falls on July 8, 1997. The parties have tentatively identified August 12 and 13, 1997, as the dates for hearing in this matter. The Department has sufficient time to re-advertise the Amended Application, allowing current protestants to raise additional issues under the Amended Application and further protestants opportunity to intervene, without delaying the hearing in this matter.

THEREFORE, IT IS ORDERED THAT:

1. This matter shall proceed using the Amended Application, with Attachments, which is Exhibit 1 to this Order as the requested transfer pending with the hearing officer. The Amended Application as modified by Department personnel shall have no force or effect. The Department shall consider the Amended Application to have been filed on April 2, 1996.

2. The Department shall re-advertise the Amended Application at the Department's expense using the information submitted by the Applicant. The hearing dates currently set by the hearing officer shall remain in effect, absent a showing of prejudice by any current party or intervenor.

DATED This 26TH day of June, 1997.

Norman Young
Administrator, Water Management Division

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 27th day of June, 1997, I mailed a true and correct copy of the foregoing **ORDER RE AMENDED APPLICATION IN TRANSFER NO. 3553** on the following persons listed below by U.S. mail, postage prepaid and addressed as follows:

Ronald D. Carlson
Eastern Regional Manager
Idaho Dept. of Water Resources
900 N. Skyline Dr.
Idaho Falls, ID 83402

Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN & CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405

Blair J. Grover, Esq.
GROVER & ARCHIBALD
P.O. Box 36
Rigby, ID 83442

George Petersen, Esq.
PETERSEN MOSS OLSEN
MEACHAM & CARR
485 "E" Street
Idaho Falls, ID 83402

Deborah Drew-Ellis
Legal Secretary

**EXHIBIT 1**

Form 222
1-87

Page 1 of 55

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 35553

## AMENDED APPLICATION FOR TRANSFER OF WATER RIGHTS
## PART 1

Name of Applicant Birch Creek Ranches, L.L.C. Phone (208) 523-0620
Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., P.O Box 50130, Idaho Falls, Idaho 83405

### A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes Applicant has acquired lands which can be irrigated with water from the lower reach of Birch Creek and desires to change the point of diversion and place of use for the rights listed herein.

### B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1.

| Right Number | Priority | Amount (cfs/ac-ft) | Nature of Use | Period of Use |
|---|---|---|---|---|
| See Attachment No. 1 | | | | to |
| | | | | to |
| | | | | to |
| | | | | to |

2. Total amount of water being transferred 23.6 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Birch Creek tributary to sinks

4. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | SE | SW | 34 | 9N | 30E | Clark | New Reno Diversion |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

5. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 9N | 32E | 36 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | | | | | | | | | 320 |
| 9N | 33E | 31 | | | | | | | | | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 320 |
| | | 32 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | | | | | 480 |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 1,120

6. General Information:

a. Description of diversion system An earthen dam with a buried PVC liner has been placed in Birch Creek at the point of diversion to divert water into the new lined channel to the power plant which discharges the water into the old Reno Ditch

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? X Yes ____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes. See Attachment No. 2.

c. Describe the effect on the land now irrigated if the place of use is changed pursuant to this transfer:
960 acres of former Simmons land will no longer be irrigated. 160 acres of Woodie lands will no longer be irrigated. All 339 acres of Wagoner lands will still be irrigated by virtue of a trade of 4.0cfs from Simmons rights nos. 32-0067 and 32-0090 for 6.0cfs of Wagoner rights listed in Attachment No. 1

d. Remarks:
All rights have been shown in Part 2 as they are listed in the relevant decrees or previous transfers. In addition however, SRBA claims for the Wagoner rights have been filed showing 339 acres as the place of use, point of diversion in the SENENW (lot 3) of S.5, T.9N., R.30E. and an irrigation season from 01/01 - 12/31 each year.

**ACTION OF THE DIRECTOR DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined Application for Transfer of Water Rights No. _____ and said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 1994.

_____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00090 Decreed to C.B. Watts
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 3

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/10/1886

5. Water is used for the following purpose:

amount 1.6cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 4

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 5

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 960

9. Describe any other water rights used for the same purpose as described above 32-00093, 32-00068, 32-00061C, 32-00069, 32-00089, 32-00092, 32-00091

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe water available under the Simmons water rights was leased to D&D Enterprises from about 1989 through 1993. In addition, most of the Simmons land is contracted in a federal cropland set-aside program; see Attachment No. 6

## B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount .8cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion: See Attachment No. 4

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use: See Attachment No. 5

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

## C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)* But see corresponding application for transfer of ½ of this right by Mac and Betty Wagoner.

1. amount .8cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion: See Attachment No. 4

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

 Transfer No. _____

3. Lands irrigated or place of use: See Attachment No. 5

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00093 Decreed to Edward M Kaufman
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 3

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/10/1886

5. Water is used for the following purpose:

amount 1.6cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right 1.6 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 4

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 5

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 960

9. Describe any other water rights used for the same purpose as described above 32-00090, 32-00068, 32-00061C, 32-00069, 32-00089, 32-00092, 32-00091

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe water available under the Simmons water rights was leased to D&D Enterprises from about 1989 through 1993. In addition, most of the Simmons land is contracted in a federal cropland set-aside program; see Attachment No. 6

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

 Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00068 Decreed to Wood Livestock Co.
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 3

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/10/1887

5. Water is used for the following purpose:

amount 3.2cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 4

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 5

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 960

9. Describe any other water rights used for the same purpose as described above 32-00090, 32-00093, 32-00061C, 32-00069, 32-00089, 32-00092, 32-00091

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe water available under the Simmons water rights was leased to D&D Enterprises from about 1989 through 1993. In addition, most of the Simmons land is contracted in a federal cropland set-aside program; see Attachment No. 6

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00061C Decreed to Jerome F. Reno
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. 265 and 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 3

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/10/1888

5. Water is used for the following purpose:

amount .4cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right .4 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 4

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 5

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 960

9. Describe any other water rights used for the same purpose as described above 32-00090, 32-00093, 32-00068, 32-00069, 32-00089, 32-00092, 32-00091

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe water available under the Simmons water rights was leased to D&D Enterprises from about 1989 through 1993. In addition, most of the Simmons land is contracted in a federal cropland set-aside program; see Attachment No. 6

## B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

## C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

 Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00069 Decreed to Wood Livestock Co.
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 3

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/10/1888

5. Water is used for the following purpose:

amount 3.2cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right 3.2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 4

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 5

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 960

9. Describe any other water rights used for the same purpose as described above 32-00090, 32-00093, 32-00061C, 32-00068, 32-00089, 32-00092, 32-00091

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe water available under the Simmons water rights was leased to D&D Enterprises from about 1989 through 1993. In addition, most of the Simmons land is contracted in a federal cropland set-aside program; see Attachment No. 6

## B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

## C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00089 Decreed to C.B. Watts
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 3

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/10/1888

5. Water is used for the following purpose:

amount 2.5cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right 2.5 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 4

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 5

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 960

9. Describe any other water rights used for the same purpose as described above 32-00090, 32-00093, 32-00061C, 32-00068, 32-00069, 32-00092, 32-00091

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe water available under the Simmons water rights was leased to D&D Enterprises from about 1989 through 1993. In addition, most of the Simmons land is contracted in a federal cropland set-aside program; see Attachment No. 6

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00092 Decreed to Edward M. Kaufman
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____

See Attachment No. 3

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/10/1888

5. Water is used for the following purpose:

amount 2.5cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right 2.5 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 4

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 5

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 960

9. Describe any other water rights used for the same purpose as described above 32-00090, 32-00093, 32-00061C, 32-00068, 32-00069, 32-00089, 32-00091

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe water available under the Simmons water rights was leased to D&D Enterprises from about 1989 through 1993. In addition, most of the Simmons land is contracted in a federal cropland set-aside program; see Attachment No. 6

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00091 Decreed to Edward M. Kaufman
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. 2165 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 3

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/10/1901

5. Water is used for the following purpose:

amount .5cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right .5 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: See Attachment No. 4

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: See Attachment No. 5

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 960

9. Describe any other water rights used for the same purpose as described above 32-00090, 32-00093, 32-00061C, 32-00068, 32-00069, 32-00089, 32-00092

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe water available under the Simmons water rights was leased to D&D Enterprises from about 1989 through 1993. In addition, most of the Simmons land is contracted in a federal cropland set-aside program; see Attachment No. 6

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00101 Decreed to Thomas J. Weimer
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 7

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 06/04/1909

5. Water is used for the following purpose:

amount 2.9cfs for Irrigation purposes from 04/01 to 11/01
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right 2.9 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | SE | SE | NE | 3 | 10N | 29E | Clark | Woodie Diversion |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 10N | 29E | 2 | | | | | | | | | | | I | | | | | | |
| | | 3 | | | | I | | | | | | | | | I | | | I | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? yes. If yes, describe Prior to commencement of fifth year, applicant filed application for extension; see Attachment No. 8

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00102 Decreed to Samuel Goddard
in case of Frank Reno, et al vs. J.R. Richards, et al
dated 10/21/1894 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 9

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/10/1889

5. Water is used for the following purpose:

amount 4.0cfs for Irrigation purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right 4.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: Not listed in decree

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use: Not listed in decree

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

9. Describe any other water rights used for the same purpose as described above 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087, 32-00079

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe _____

## B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

## C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

   a. Decree No. 32-00073 Decreed to George Goddard
   in case of Agnes B. Reno, et al vs. J.R. Richards, et al
   dated 09/06/1922 in 9th District Court county of Fremont.

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
   See Attachment No. 9

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/10/1909

5. Water is used for the following purpose:

   amount 2cfs for Irrigation purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft
   amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right 2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: Not listed in decree

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 9N | 30E | 9 | | I | I | I | I | | | | | | | | | | | | 160 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 160

9. Describe any other water rights used for the same purpose as described above 32-00102, 32-00085, 32-00077, 32-00087, 32-00078, 32-00087, 32-00079

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe _____

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00085 Decreed to Samuel Goddard
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 9

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/10/1910

5. Water is used for the following purpose:

amount 2cfs for Irrigation purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right 2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: Not listed in decree

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 9N | 30E | 9 | | | | | | | | I | I | | | | | I | | | 120 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 120

9. Describe any other water rights used for the same purpose as described above 32-00102, 32-00073, 32-00077, 32-00086, 32-00078, 32-00087, 32-00079

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe _____

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

 Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00077 Decreed to George Goddard
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 9

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/15/1910

5. Water is used for the following purpose:

amount .2cfs for Irrigation purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right .2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: Not listed in decree

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 9N | 30E | 9 | | I | I | I | I | | | | | | | | | | | | 160 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 160

9. Describe any other water rights used for the same purpose as described above 32-00102, 32-00073, 32-00085, 32-00086, 32-00078, 32-00087, 32-00079

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe _____

## B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

## C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

## APPLICATION FOR TRANSFER OF WATER RIGHT
## PART 2
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

   a. Decree No. 32-00086 Decreed to Samuel Goddard
   in case of Agnes B. Reno, et al vs. J.R. Richards, et al
   dated 09/06/1922 in 9th District Court county of Fremont.

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☒ Warranty Deed ☐ Other _____
   See Attachment No. 9

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/01/1911

5. Water is used for the following purpose:

   amount .2cfs for Irrigation purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft
   amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right .2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: Not listed in decree

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 9N | 30E | 9 | | | | | | | | I | I | | | | | I | | | 120 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 120

9. Describe any other water rights used for the same purpose as described above 32-00102, 32-00073, 32-00085, 32-00077, 32-00078, 32-00087, 32-00079

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe _____

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00078 Decreed to George Goddard
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____

See Attachment No. 9

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/15/1911

5. Water is used for the following purpose:

amount .2cfs for Irrigation purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right .2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: Not listed in decree

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 9N | 30E | 9 | | I | I | I | I | | | | | | | | | | | | 160 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 160

9. Describe any other water rights used for the same purpose as described above 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00087, 32-00079

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe _____

## B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

## C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00087 Decreed to Samuel Goddard
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 9

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/01/1912

5. Water is used for the following purpose:

amount .2cfs for Irrigation purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right .2 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: Not listed in decree

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 9N | 30E | 9 | | | | | | | | 1 | 1 | | | | | 1 | | | 120 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 120

9. Describe any other water rights used for the same purpose as described above 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00079

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe _____

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

 Transfer No. _____

**STATE OF IDAHO**
**DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT**
**PART 2**
*(ATTACH ONE COPY FOR EACH RIGHT)*

**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

a. Decree No. 32-00079 Decreed to George Goddard
in case of Agnes B. Reno, et al vs. J.R. Richards, et al
dated 09/06/1922 in 9th District Court county of Fremont.

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____
See Attachment No. 9

3. Source of Water Birch Creek tributary to Sinks

4. Date of priority 05/15/1913

5. Water is used for the following purpose:

amount .8cfs for Irrigation purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right .8 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: Not listed on decree

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

8. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 9N | 30E | 9 | | I | I | I | I | | | | | | | | | | | | 160 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres 160

9. Describe any other water rights used for the same purpose as described above 32-00102, 32-00073, 32-00085, 32-00077, 32-00086, 32-00078, 32-00087

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? no. If yes, describe _____

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

*(If the entire right is to be changed by the applicant, omit part B and C)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total Acres _____

**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Transfer No. _____

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

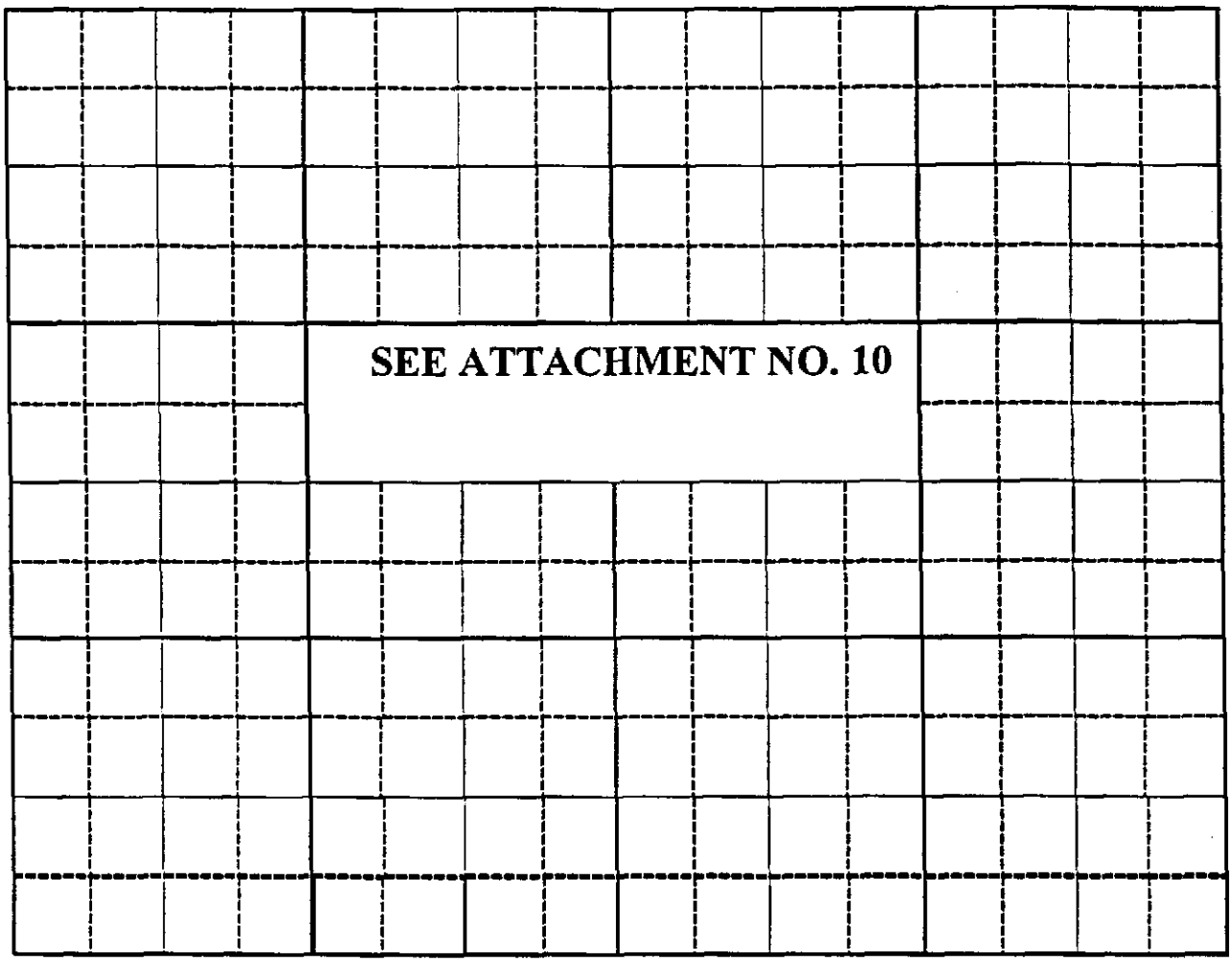
Total Acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. **Draw a map or attach a USGS map indication the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.**




SCALE: 2 inches equal 1 mile. Draw plan in ink.

**B. CHANGES IN NATURE OF USE**

| 1. New Nature of Use | Amount (cfs/ac-ft) | Hours/days/year | Period of Use |
|---|---|---|---|
| _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ to _____ |

2. Quantity and quality of return flows and location of discharge:

There are no return flows

3. Describe effects on other water uses resulting from the proposed change:

There will be no effects on other water uses from this proposed change

I hereby asset that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

[signature], President, Birch Creek Ranches
(Signature of Applicant)

Subscribed and sworn to before me this 28th day of March, 1994.

[signature]
Notary Public

NOTARY PUBLIC
KENT W. FOSTER
STATE OF IDAHO

Residing at Idaho Falls, Idaho
My Commission exp. Nov. 20 1998

My Commission Expires 11/20/98

**FOR DEPARTMENT USE ONLY**

Transfer contains _____ pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim. check by _____ Fee _____

Receipted by _____ Date _____

Notice of Correction Published in Post Register; statewide Copies of protest forwarded by _____

Pub. dates 7-17 and 24, 1997 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd _____ by _____

Copy of transfer sent to lien holder _____

G:\WPDATA\KWF\6936\BRCH.APP:sjw

ATTACHMENT NO. 1

RECEIVED
APR 2 1996
Department of Water Resources
Eastern Region

## LIST OF WATER RIGHTS FOR PART 1B.1.

| RIGHT NO. | PRIORITY | AMOUNT | NATURE OF USE | PERIOD OF USE |
|---|---|---|---|---|
| 32-00093 | May 10, 1886 | 1.6cfs | Irrigation | 04/01 to 11/01 |
| 32-00090 A | May 10, 1886 | .8cfs | Irrigation | 04/01 to 11/01 |
| 32-00068 | May 10, 1887 | 3.2cfs | Irrigation | 04/01 to 11/01 |
| 32-00061C | May 10, 1888 | .4cfs | Irrigation | 04/01 to 11/01 |
| 32-00069 | May 10, 1888 | 3.2cfs | Irrigation | 04/01 to 11/01 |
| 32-00089 | May 10, 1888 | 2.5cfs | Irrigation | 04/01 to 11/01 |
| 32-00092 | May 10, 1888 | 2.5cfs | Irrigation | 04/01 to 11/01 |
| 32-00091 | May 1, 1901 | .5cfs | Irrigation | 04/01 to 11/01 |
| 32-00101 | June 4, 1909 | 2.9cfs | Irrigation | 04/01 to 11/01 |
| 32-00102 | May 10, 1889 | 4.0cfs | Irrigation | 04/01 to 11/01 |
| 32-00073 | May 15, 1909 | .2cfs | Irrigation | 04/01 to 11/01 |
| 32-00085 | May 10, 1910 | .2cfs | Irrigation | 04/01 to 11/01 |
| 32-00077 | May 15, 1910 | .2cfs | Irrigation | 04/01 to 11/01 |
| 32-00086 | May 1, 1911 | .2cfs | Irrigation | 04/01 to 11/01 |
| 32-00078 | May 15, 1911 | .2cfs | Irrigation | 04/01 to 11/01 |
| 32-00087 | May 1, 1912 | .2cfs | Irrigation | 04/01 to 11/01 |
| 32-00079 | May 15, 1913 | .8cfs | Irrigation | 04/01 to 11/01 |

G:\WPDATA\KWF\6936\BRCH.LST:sjw

ATTACHMENT NO. 2A

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

AGREEMENT

THIS AGREEMENT is made and entered into as of the 17 day of APRIL, 1990, by and between H. MARGERY BARE, a widow, hereinafter referred to as "Bare", and BIRCH CREEK RANCHES, INC., an Idaho Corporation, hereinafter referred to as "Birch Creek".

RECITALS:

1. Birch Creek has filed with the Department of Water Resources of the State of Idaho an Application to change both the points of diversion and place of use for nine (9) water rights (the "Birch Creek Application"). The Birch Creek Application is now set for hearing before the Idaho Department of Water Resources on April 17 and 18, 1990.

2. The water rights referred to in the Birch Creek Application are now appurtenant to property located in Clark County, Idaho, which Bare is selling pursuant to a Sale Agreement dated April 3, 1975, originally entered into between G. Marshall Bare and H. Margery Bare, husband and wife, and William T. Simmons and Theola Simmons, husband and wife, (the "Bare Sale Contract"). Subject to the terms and conditions of this Agreement, Bare and Birch Creek have agreed to amend the Bare Sale Contract and Bare has agreed not to take any action to contest or oppose the Birch Creek Application.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein, THE PARTIES AGREE AS FOLLOWS:

1. Bare agrees to withdraw her pending protest and not take any future action to oppose the Birch Creek Application.

2. If Birch Creek is granted the change in points of diversion and place of usage requested in the Birch Creek Application without any limitations or modifications which are not acceptable to Birch Creek, then Birch Creek and Bare agree to amend the Bare Sale Contract in the manner described in the Amendment Agreement attached hereto as Exhibit "1" (the "Amendment Agreement"). Within ten (10) days after the entry of a final non-appealable order (or within ten (10) days after the expiration of the appeal time on an appealable order without an appeal being filed) which approves the change in points of diversion and place of usage requested in the Birch Creek Application without any limitations or modifications

which are not acceptable to Birch Creek, the parties hereto agree to execute the Amendment Agreement and to fully comply with the terms and conditions of the Amendment Agreement.

3. In the event the Birch Creek Application is not approved without any limitations or modifications which are not acceptable to Birch Creek, then in such event Birch Creek and Bare shall not be required to execute the Amendment Agreement or to otherwise comply with the terms and conditions of the Amendment Agreement.

4. Should either party default in the performance of any of the covenants or agreements contained herein, such defaulting party shall pay to the other party all costs and expenses, including, but not limited to, a reasonable attorney fee, including such fees on appeal, which the offended party may incur in enforcing this Agreement or in pursuing any remedy allowed by law for the breach hereof, whether such is incurred by the filing of suit or otherwise.

5. In the event Birch Creek is granted the change in points of diversion and place of usage requested in the Birch Creek Application without any limitations or modifications which are not acceptable to Birch Creek and Birch Creek and Bare execute the Amendment to Contract of Sale and supplemental Escrow Instructions referred to herein as Exhibit "1", then Birch Creek agrees that if Birch Creek shall then subsequently default in the performance of the terms and conditions of the Bare Sale Contract, Birch Creek will execute any and all documents which may reasonably be necessary and consent to any and all administrative or judicial decrees which may be necessary in order for the water referred to in the Birch Creek Application to be transferred back to the original point of diversion and place of usage which was applicable prior to the approval of the Birch Creek Application.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

H. Margery Bare

BIRCH CREEK RANCHES, INC.

By: _____

Its: _____

STATE OF IDAHO, )
)ss.
County of Bonneville. )

On this 17 day of APRIL, in the year 1990, before me, the undersigned Notary Public in and for said state, personally appeared H. MARGERY BARE, a widow, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me she 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.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires FEB 1, 1991

(Seal)

STATE OF IDAHO, )
)ss.
County of Bonneville )

On this 17 day of APRIL, in the year 1990, personally appeared Wm. T. Simmons, known to me to be the President of BIRCH CREEK RANCHES, INC., the Corporation that executed the foregoing instrument and acknowledged to me that such Corporation 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.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires FEB 1, 1991

(Seal)

CAH/7251h/cts

AMENDMENT TO CONTRACT OF SALE
AND
SUPPLEMENTAL ESCROW INSTRUCTIONS

THIS AGREEMENT is made and entered into as of the ____ day of _____, 1990, by and between H. MARGERY BARE, a widow, hereinafter referred to as "Bare", and BIRCH CREEK RANCHES, INC., an Idaho Corporation, hereinafter referred to as "Birch Creek".

RECITALS:

1. Bare is the surviving spouse of G. Marshal Bare. Bare, G. Marshal Bare and William T. Simmons and Theola Simmons entered into a Sale Contract dated April 3, 1975, pertaining to the sale of certain property located in Clark County, Idaho, to William T. Simmons and Theola Simmons (the "Bare Sale Contract"). William T. Simmons is the surviving spouse of Theola Simmons and the Personal Representative of the Estate of Theola Simmons. In connection with the execution of the Bare Sale Contract such parties also entered into an Escrow Agreement (the "Escrow Agreement"), with First Security Bank of Idaho, N.A. ("First Security"). Pursuant to the Bare Sale Contract and the Escrow Agreement an Escrow Account has been established at First Security Bank of Idaho, N.A. under Contract No. 002-11227 and Contract No. 002-21227.

2. The interest of William T. Simmons and Theola Simmons in the Bare Sale Contract and Escrow Agreement has now been assigned to Birch Creek pursuant to an Assignment of Contract of Sale dated March 22, 1989 (the "Assignment Agreement").

3. The parties are executing this Agreement in order to modify and amend the terms and conditions of the Bare Sale Contract and Escrow Agreement and also to acknowledge and consent to the assignment from William T. Simmons and Theola Simmons to Birch Creek.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein, THE PARTIES AGREE AS FOLLOWS:

1. The executed original of this Agreement, together with the executed original Assignment Agreement shall be delivered to First Security as the Escrow Agent. The parties hereby consent to the assignment of the Bare Sale Contract to Birch Creek. First Security as the Escrow Agent is hereby instructed

EXHIBIT "1"

to act in accordance with the terms and conditions set forth herein.

2. The parties herein recognize and agree that the legal description set forth in the Bare Sale Contract was inaccurate. In order to correct such legal description, Bare is simultaneously with the execution of this Agreement, executing a new Warranty Deed to William T. Simmons in the form of Exhibit "A" attached hereto. Such new Warranty Deed shall be delivered to First Security and First Security is hereby instructed to accept such Warranty Deed in substitution for the Warranty Deed dated April 3, 1975, now held in escrow by First Security. The original Warranty Deed dated April 3, 1975, is to be released from escrow by First Security and delivered to Bare's legal counsel, John D. Hansen, 683 North Capital Avenue, Idaho Falls, Idaho. The parties agree that the legal description set forth in the Bare Sale Contract shall be amended to conform to the legal description set forth in the new Warranty Deed from Bare to William T. Simmons which is to be placed in escrow.

3. The payment terms of the Bare Sale Contract and Escrow Agreement which pertain to the payments now being paid under Escrow Account No. 002-11227 and which are referred to in paragraph A on page 5 of the Bare Sale Contract shall be amended to provide that the current unpaid balance of principal and interest shall be paid as follows:

(i) The principal balance shall continue to accrue interest at the rate of nine (9) percent per annum. Annual payments in the amount of $52,047.26 each shall be made commencing on December 31, 1990, and continuing on the 31st day of each December thereafter until December 31, 1993, at which time the full unpaid balance of principal and interest shall be paid in full.

4. The payment terms of the Bare Sale Contract and Escrow Agreement which pertain to the payments now being paid under Escrow Account No. 002-21227 and which are referred to in paragraph B on page 5 of the Bare Sale Contract shall be amended to provide that the current unpaid balance of principal and interest shall be paid as follows:

(i) The principal balance shall continue to accrue interest at the rate of seven (7) percent per annum. On April 1, 1990, the principal amount of $9,788.10 and in addition accrued interest shall be paid. Thereafter, principal payments in the amount of $12,001.41 each shall be paid commencing on

December 31, 1990, and continuing on December 31 of each year thereafter until December 31, 1993, at which time the full unpaid balance of principal and interest shall be paid in full. All unpaid accrued interest shall be paid on December 31, 1990; December 31, 1991; December 31, 1992; and December 31, 1993, in addition to the principal payments of $12,001.41 each which are to be paid on such dates.

5. The Bare Sale Contract and Escrow Agreement shall not be affected by this Agreement except for the amendments thereto specifically set forth herein. The Bare Sale Contract and Escrow Agreement are hereby ratified and confirmed and shall continue in full force and effect as amended.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

_____

H. Margery Bare

BIRCH CREEK RANCHES, INC.

By _____

Its _____

STATE OF IDAHO, )
)ss.
County of Bonneville. )

On this _____ day of _____, in the year 1990, before me, the undersigned Notary Public in and for said state, personally appeared H. MARGERY BARE, a widow, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me she 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.

_____
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires_____

(Seal)

STATE OF IDAHO, )
)ss.
County of Bonneville )

On this _____ day of _____, in the year 1990, personally appeared _____, known to me to be the _____ of BIRCH CREEK RANCHES, INC., the Corporation that executed the foregoing instrument and acknowledged to me that such Corporation 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.

_____
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires_____

(Seal)

CAH/7249h/rfs

WARRANTY DEED

THIS INDENTURE, made this _____ day of _____, 1990, by H. MARGERY BARE, a widow, the party of the first part, and WILLIAM T. SIMMONS, individually and as Personal Representative of the Estaste of Theola Simmons, whose mailing address is P. O. Box 9, Terreton, County of Clark, State of Idaho 83450, the party of the second part.

WITNESSETH, that the party of the first part, for and in consideration of the sum of TEN DOLLARS ($10.00) lawful money of the United States of America, and OTHER GOOD AND VALUABLE CONSIDERATION, to the party of the first part in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and by these presents, does grant, bargain, sell, convey and confirm unto the party of the second part, and to the party of the second part's heirs and assigns, forever, all of the following described real estate situated in the County of Clark, State of Idaho, to-wit:

PARCEL 1:

Township 10 North, Range 29 East, Boise Meridian, Clark County, Idaho

Section 11: W1/2 NW1/4

Township 10 North, Range 30 East, Boise Meridian, Clark County, Idaho

Section 29: SE1/4 SW1/4

Section 32: NE1/4 NW1/4
S1/2 NW1/4
N1/2 SW1/4
SE1/4 SW1/4
W1/2 E1/2
SE1/4 SE1/4

ALSO, a tract lying within Sections 29 and 32, described as follows: Beginning at the NE Corner of the NW1/4 SW1/4 of Section 29, thence West 12 chains; thence South 18 chains; thence East 2 chains; thence South 18 chains; thence West 3 chains; thence South 14 chains; thence West 7 chains; thence South 10 chains to the SW Corner of the NW1/4 NW1/4 of Section 32, thence East 20 chains; thence North 60 chains to the place of beginning.

EXHIBIT "A"

EXCEPTING THEREFROM: Beginning at a point of the Section Line between Sections 31 and 32 which is 12 chains South of corner common to Section 29, 30, 31 and 32, Township 10 North, Range 30 East, Boise Meridian; thence S 0° 04' E along said Section line for 6 chains; thence East 9 chains; thence N 1° 50' W for 8 chains and 50 links; thence N 9° 40' W for 3 chains and 48 links; thence N 7° 44' E for 2 chains and 23 links; thence N 55° 40' W for 1 chain and 75 links; thence S 0° 04' E for 7 chains and 10 links; thence West 5 chains; thence S 0° 04' E for 2 chains; thence West for 2 chains to the place of beginning.

PARCEL 2:

Township 10 North, Range 29 East, Boise Meridian, Clark County, Idaho.

| | | |
|---|---|---|
| Section 11: | SE 1/4 | NW 1/4 |
| | NE 1/4 | SW 1/4 |
| | NW 1/4 | SE 1/4 |
| | S 1/2 | SE 1/4 |
| Section 12: | SW 1/4 | SW 1/4 |
| Section 13: | W 1/2 | NW 1/4 |
| | N 1/2 | SW 1/4 |
| | SE 1/4 | SW 1/4 |
| | S 1/2 | SE 1/4 |
| Section 14: | N 1/2 | NE 1/4 |
| | SE 1/4 | NE 1/4 |
| | NE 1/4 | SE 1/4 |
| Section 24: | E 1/2 | NE 1/4 |
| | N 1/2 | SE 1/4 |
| | SE 1/4 | SE 1/4 |

EXCEPTING THEREFROM the following described two tracts situate in the E 1/2 NE 1/4.

TRACT 1: Beginning at ac a point on the North boundary of the SE 1/4 NE 1/4 of Section 24, on the West boundary of Highway No. 28 from which the NE Section Corner of Section 24 bears S

89° 56' E 160.0 feet and N 0°06' W for a distance of 1320 feet; thence N 89° 56' W for a distance of 250 feet; thence S 15° 45' E for a distance of 498.7 feet; thence S 89° 56' E for a distance of 250 feet to a point on the West right-of-way of Highway No. 28, (with a tie to Section line, S 89° 56' W 25.6 feet; thence along said Section line for a distance of 1800.0 feet to said NE Section corner of Section 24); thence along the West boundary of Highway No. 28 which is a 4° curve to the left to the point of beginning.

TRACT 2: Beginning at a point on the South boundary of the NE 1/4 NE 1/4 of Section 24, on the West boundary of Highway No. 28 (from which the NE Section Corner of Section 24 bears S 89° 56' E 160 feet and N 0° 06' W for a distance of 1320 feet;) thence N 89° 56' W for a distance of 250 feet; thence N 1° 44' W for a distance of 115.0 feet; thence N 33° 30' E for a distance of 51 feet; thence N 58° 34' E for a distance of 111.7 feet; thence South along the West right-of-way boundary of Highway No. 28 along a 4° curve to the point of beginning.

Section 25: NE 1/4 NE 1/4

Township 10 North, Range 30 East, Boise Meridian, Clark County, Idaho

Section 19: Lots 2, 3, and 4
SE 1/4 SW 1/4
SW 1/4 SE 1/4

Section 30: Lot 1
E 1/2 NW 1/4
NE 1/4

EXCEPTING THEREFROM: Beginning at the Quarter Section Corner common to Section 29 and 30, Township 10 North,

Range 30 East, Boise Meridian, where a stone in placed marked "1/4" lies; thence along the center line of Section 30, S 89° 58' W 40 chains; thence N 0° 02' W 4.86 chains ; thence N 57° 29' E 20.72 chains; thence N 83° 53' E 22.56 chains; thence S 0° 04' E along the Section line common to Sections 29 and 30, 18.38 chains to the point of beginning.

PARCEL 3: Township 10 North, Range 30 East of the Boise Meridian, Clark County, Idaho

Section 32: Beginning at a point that is S 0° 04' E along the Section line 400.0 feet and East 462.0 feet from the NW Corner of said Section 32 and running thence N 0° 04' W 208.60 feet; thence S 56° 35' 20" E 115.55 feet; thence S 7° 44' W 147.18 feet; thence S 9° 40' E 30.0 feet; thence S 78° 11' 30" W 83.15 feet; thence N 0° 04' W 47.46 feet to the point of beginning.

Together with all tenements, hereditaments and appurtenances belonging or appertaining thereto, including but not limited to, all buildings, fences, headgates situate thereon, and all water rights and ditch rights and all B.L.M. and forest grazing privileges appurtenant thereto.

SUBJECT TO THE FOLLOWING:

(1) Taxes and water assessments levied and assessed against said property for the year 1975 and thereafter.

(2) Right-of-way conveyed to State of Idaho for highway purposes as to 100 feet strip over and across SW 1/4 SE 1/4 and SW 1/4 and SW 1/4 NW 1/4 of Section 32, Township 10 North, Range 30 East, Boise Meridian, by Instrument recorded July 14, 1938, in Book 8 of Deeds page 603, together with an easement for construction of irrigation or drain ditches and structures and surface drain ditches as may be necessary for proper construction of highway on property adjacent to right-of-way granted.

(3) Rights-of-way conveyed to State of Idaho, for highway purposes as to 100 foot strip over NE 1/4 NW 1/4 of Section 32, Township 10 North, Range 30 East, Boise Meridian, by easements recorded July 14, 1938, in

Book 9 of Deeds, page 604, 605 and 607, together with an easement for construction of irrigation or drain ditches and structures and surface drain ditches as may be necessary for proper construction of highway on property adjacent to right-of-way granted.

(4) Right-of-way for highway by Right-of-Way Deed granted to the State of Idaho describing highway 100 feet wide over the NE 1/4 NE 1/4 of Section 14, Township 10 North, Range 39 East, Boise Meridian, dated January 8, 1938, recorded July 14, 1938, in Book 9 of Deeds, page 611, records of Clark County, Idaho.

(5) Right-of-Way for highway purposes granted to the State of Idaho, over and across SE 1/4 NW 1/4 of Section 11, Township 10 North, Range 29 East, Boise Meridian, and easement for relocation of ditches, etc., by instrument dated January 14, 1938, recorded July 14, 1938, in Book 9 of Deeds, page 612, records of Clark County, Idaho.

(6) Order of Condemnation for highways in favor of the County of Clark, Plaintiff, dated November 10, 1939, and recorded in Book 2 of Judgments, page 297, records of Clark County, Idaho.

(7) Easements over portion of said land for pole lines and incidental purposes as granted Utah Power and Light Company, by deeds recorded October 20, 1965, in Book 5 of Misc., page 228, 229, 230 and 231, records of Clark County, Idaho.

(8) An easement over a portion of said land for pole lines and incidental purposes as granted Utah Power & Light Company by deed recorded January 4, 1968, as filing No. 26268, records of Clark County, Idaho.

(9) A Pole Line Easement with rights incidental thereto as set forth in a document

Granted by: William T. Simmons and Theola Simmons, husband and wife.

Granted to: Utah Power & Light Company, a corporation

Dated: July 27, 1977

Recorded: September 1, 1977, at 10:19 a.m. as Instrument No. 32186, records of Clark County, Idaho.

(10) A Pole Line Easement with rights incidental thereto as set forth in a document

Granted by: William T. Simmons and Theola Simmons, husband and wife.

Granted to: Utah Power & Light Company, a corporation

Dated: September 29, 1977

Recorded: November 7, 1977, at 9:05 a.m. as Instrument No. 32309, records of Clark County, Idaho.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the property, as well in law as in equity, of the party of the first part.

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises together with the appurtenances unto the party of the second part, and to the party of the second part's heirs and assigns forever. The party of the first part and the party of the first part's heirs shall and will warrant and by these presents forever defend the premises in the quiet and peaceable possession of the party of the second part, and the party of the second part's heirs and assigns, against the party of the first part, and the party of the first part's heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same.

In construing this deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the party of the first part hereunto has set her hand the day and year first above written.

M. Margery Bare, a Widow

STATE OF IDAHO, )
)ss.
County of Bonneville. )

On this _____ day of _____, in the year 1990, before me, the undersigned Notary Public in and for said state, personally appeared H. MARGERY BARE, a widow, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me she 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.

_____
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires_____

(Seal)

CAH/7248h/cfs

ATTACHMENT NO. 2B

**Farm Credit Services**

217 North Second East
P.O. Box 157
Rexburg, Idaho 83440
208/356-4442

March 27, 1996

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

Ted Sorenson
5203 South 11 East
Idaho Falls, ID 83404

Dear Mr. Sorenson

Ag America, FCB, successor in interest to The Federal Land Bank of Spokane, holds a mortgage on the real property described on the attached Exhibit A. As an authorized agent of said mortgage holder I hereby give consent to the transfer of any water rights appurtenant to the real property described on the attached Exhibit A.

AgAmerica, FCB, successor in interest to
The Federal Land Bank of Spokane

By: Dawn Lewis
Authorized Agent

EXHIBIT A

TRACT ONE:
Township 10 North, Range 29 East, Boise Meridian,
Clark County, Idaho.
Section 11: W½NW¼

Township 10 North, Range 30 East, Boise Meridian,
Clark County, Idaho.
Section 29: SE¼SW¼
Section 32: NE¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, W½E½, SE¼SE¼
ALSO, a tract lying within Sections 29 and 32, described as follows: Beginning at the Northeast corner of the NW¼SW¼ of Section 29; thence
West 12 chains; thence
South 18 chains; thence
East 2 chains; thence
South 18 chains; thence
West 3 chains; thence
South 14 chains; thence
West 7 chains; thence
South 10 chains to the Southwest corner of the NW¼NW¼ of Section 32; thence
East 20 chains; thence
North 60 chains to the Place of Beginning;
EXCEPTING:
Beginning at a point on the Section line between Sections 31 and 32 which is 12 chains South of the Section corner common to Sections 29, 30, 31 and 32, T. 10 N., R. 30 E.B.M.; thence
South 0°04' East along said Section line for 6 chains; thence
East 9 chains; thence
North 1°50' West for 8 chains and 50 links; thence
North 9°40' West for 3 chains and 48 links; thence
North 7°44' East for 2 chains and 23 links; thence
North 55°40' West for 1 chain and 75 links; thence
South 0°04' East for 7 chains and 10 links; thence
West 5 chains; thence
South 0°04' East for 2 chains; thence
West for 2 chains to the Place of Beginning.

TRACT TWO:
Township 10 North, Range 29 East, Boise Meridian,
Clark County, Idaho.
Section 11: SE¼NW¼, NE¼SW¼, NW¼SE¼, S½SE¼.
Section 12: SW¼SW¼.
Section 13: W½NW¼, N½SW¼, SE¼SW¼, S½SE¼.
Section 14: N½NE¼, SE¼NE¼, NE¼SE¼.
Section 24: E½NE¼, N½SE¼, SE¼SE¼, EXCEPTING therefrom the following described two tracts situated in the E½NE¼.

Tract One: Beginning at a point on the North boundary of the SE¼NE¼ of Section 24, on the West boundary of Highway No. 28 from which the Northeast Section corner of Section 24 bears South 89°56' East 160.0 feet and North 0°06' West for a distance of 1320 feet; thence North 89°56' West for a distance of 250 feet; thence South 15°45' East for a distance of 498.7 feet; thence South 89°56' East for a distance of 250 feet to a point on the West right of way of Highway No. 28, (with a tie to Section line, South 89°56' West 25.6 feet; thence along said Section line for a distance of 1800.0 feet to said Northeast Section corner of Section 24); thence along the West boundary of Highway No. 28 which is a 4°curve to the left to the Point of Beginning.
Tract Two: Beginning at a point on the South boundary of the NE¼NE¼ of Section 24, on the West boundary of Highway No. 28 (from which the Northeast Section corner of Section 24 bears South 89°56' East 160 feet and North 0°06' West for a distance of 1320 feet;) thence North 89°56' West for a distance of 250 feet; thence North 1°44' West for a distance of 115.0 feet; thence North 44°21' East for a distance of 51 feet; thence South 74°38' East for a distance of 111.7 feet; thence South along the West right of way boundary of Highway No. 28 along a 4° curve to the Point of Beginning.

Section 25: NE¼NE¼.

Township 10 North, Range 30 East, Boise Meridian, Clark County, Idaho.
Section 19: Lots 2, 3 and 4, SE¼SW¼, SW¼SE¼.

Section 30: Lot 1, E½NW¼, NE¼, EXCEPTING therefrom the following described tract:
Beginning at the quarter Section corner common to Section 29 and 30, Township 10 North, Range 30 East, B.M., where a stone in place marked "1/4" lies; thence along the center line of Section 30, South 89°58' West 40 chains; thence North 0°02' West 4.86 chains; thence North 57°28' East 20.72 chains; thence North 83°53' East 22.65 chains; thence South 0°04' East along the Section line common to Sections 29 and 30, 18.38 chains to the Point of Beginning.

ATTACHMENT NO. 3A

46509

RECEIVED

APR 0 2 1996

Department of Water Resources
Eastern Region

# WARRANTY DEED

## (With After Acquired Property Clause)

THIS INDENTURE is made this 29th day of February, 1996, by **WILLIAM T. SIMMONS**, individually and as Personal Representative of the Estate of Theola Simmons, the "Grantor", and **BIRCH CREEK RANCHES, L.L.C.**, an Idaho limited liability company, whose mailing address is 5203 South 11 East, Idaho Falls, Idaho, 83404, the "Grantee".

**WITNESSETH:**

That the Grantor, for and in consideration of the sum of TEN DOLLARS ($10.00) lawful money of the United States of America, and other good and valuable consideration, to the Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and by these presents does grant, bargain, sell, convey and confirm unto the Grantee, and to the Grantee's successors and assigns forever, all of the following described property in the County of Clark, State of Idaho, to-wit:

**Tract 1:**

Township 10 North, Range 29 East, Boise Meridian, Clark County, Idaho

Section 11: W½ NW¼

Township 10 North, Range 30 East, Boise Meridian, Clark County, Idaho

Section 29: SE¼ SW¼

Section 32: NE¼ NW¼
S½ NW¼
N½ SW¼
SE¼ SW¼
W½ E½
SE¼ SE¼

ALSO, a tract lying within Sections 29 and 32, described as follows: Beginning at the NE Corner of the NW¼ SW¼ of Section 29, thence West 12 chains; thence South 18 chains; thence East 2 chains; thence South 18 chains; thence West 3 chains; thence South 14 chains; thence West 7 chains; thence South 10 chains to the SW Corner of the NW¼ NW¼ of Section 32, thence East 20 chains; thence North 60 chains to the place of beginning.

EXCEPTING THEREFROM: Beginning at a point of the Section Line between Sections 31 and 32 which is 12 chains South of corner common to Sections 29, 30, 31 and 32, Township 10 North, Range 30 East, Boise Meridian; thence S0°04'E along said Section line for 6 chains; thence East 9 chains; thence N1°50'W for 8 chains and 50 links; thence N9°40'W for 3 chains and 48 links; thence N7°44'E for 2 chains and 23 links; thence N55°40'W for 1 chain and 75 links; thence S0°04'E for 7 chains and 10 links; thence West 5 chains; thence S0°04'E for 2 chains; thence West for 2 chains to the place of beginning.

**Tract 2:**

Township 10 North, Range 29 East, Boise Meridian, Clark County, Idaho

Section 11: SE¼ NW¼
NE¼ SW¼
NW¼ SE¼
S½ SE¼

Section 12: SW¼ SW¼

Section 13: W½ NW¼
N½ SW¼
SE¼ SW¼
S½ SE¼

Section 14: N½ NE¼
SE¼ NE¼
NE¼ SE¼

Section 24: E½ NE¼
N½ SE¼
SE¼ SE¼

Microfilm No. 46509
11 Day March 19 96
At 15.58 P
JOANN C. TAVENNER
Fee 27.00
Erica Ruiz Deputy
Holden, Kidwell, Hahn & Crapo

EXCEPTING THEREFROM the following described three tracts situate in the E½ NE¼.

Tract 1: Beginning at a point on the North boundary of the SE¼ NE¼ of Section 24, on the West boundary of Highway No. 28 from which the NE Section Corner of Section 24 bears S89°56'E 160.0 feet and N0°06'W for a distance of 1320 feet; thence N89°56'W for a distance of 250 feet; thence S15°45'E for a distance of 498.7

feet; thence S89°56'E for a distance of 250 feet to a point on the West right-of-way of Highway No. 28, (with a tie to Section line, S89°56'W 25.6 feet; thence along said Section line for a distance of 1800.0 feet to said NE Section corner of Section 24); thence along the West boundary of Highway No. 28 which is a 4° curve to the left to the point of beginning.

Tract 2: Beginning at a point on the South boundary of the NE¼ NE¼ of Section 24, on the West boundary of Highway No. 28 (from which the NE Section Corner of Section 24 bears S89°56'E 160 feet and N0°06'W for a distance of 1320 feet;) thence N89°56'W for a distance of 250 feet; thence N1°44'W for a distance of 115.0 feet; thence N33°30'E for a distance of 51 feet; thence N68°34'E for a distance of 111.7 feet; thence South along the West right-of-way boundary of Highway No. 28 along a 4° curve to the point of beginning.

Tract 3: Commencing at the NE Corner of said Section 24, thence S00°01'26"W along the East line of said Section a distance of 1800.00 feet; thence N89°48'34"W a distance of 23.53 feet to a point on the Westerly right-of-way line of Idaho State Highway No. 28, said point being the True Point of Beginning; thence continuing N89°48'34"W a distance of 170.00 feet, more less to the centerline of Birch Creek; thence Southerly along said centerline of Birch Creek on the following courses: S33°25'27"W 75.92 feet; S13°20'06"E 138.74 feet; S50°11'40"E 23.43 feet; S14°53'11"E 163.49 feet; S04°16'33"E 107.30 feet; thence S90°00'00"E a distance of 140.64 feet to a point on the Westerly right-of-way line of Idaho State Highway No. 28; thence N03°22'00"W along said Westerly right-of-way line, a distance of 434.12 feet to a Brass Cap Monument marking a point of curvature Station 2532+65.8 Back 2532+66.2 Ahead; thence Northwesterly along said Westerly right-of-way line on a 04°08'40" Degree curve to the left, having a central angle of 01°50'47", a radius of 1382.50 feet, a chord bearing of N04°17'23"W, a chord distance of 44.55 feet, and a arc distance of 44.55 feet to the True Point of Beginning.

Section 25: NE¼ NE¼

Township 10 North, Range 30 East, Boise Meridian, Clark County, Idaho

Section 19: Lots 2, 3, and 4
SE¼ SW¼
SW¼ SE¼

Section 30: Lot 1
E½ NW¼
NE¼

EXCEPTING THEREFROM: Beginning at the Quarter Section Corner common to Section 29 and 30, Township 10 North, Range 30 East, Boise Meridian, where a stone in placed marked "1/4" lies; thence along the center line of Section 30, S89°58'W 40 chains; thence N0°02'W 4.86 chains; thence N57°28'E 20.72 chains; thence N83°53'E 22.65 chains; thence S0°04'E along the Section line common to Sections 29 and 30, 18.38 chains to the point of beginning.

ALSO EXCEPTING THEREFROM the following described property in Sections 19 and 30 of Township 10 North Range 30 East Boise Meridian, hereinafter referred to as the "Gray Place", to-wit:

All of the North Half of Section 30, Township 10 North, Range 30 East lying East of the Highway 28 right-of-way. The Southwest 1/4 of the Southeast ¼, Section 19, Township 10 North, Range 30 East; the Southeast ¼ of the Southwest ¼ of Section 19, Township 10 North, Range 30 East lying East of Highway 28 right-of-way; Lot 4 of Section 19, Township 10 North, Range 30 East lying East of Highway 28 right-of-way. That portion of Lot 3, Section 19, Township 10 North, Range 30 East, East of Highway 28 right-of-way and South of a line more particularly described as follows: Commencing at the West ¼ corner of said Section 19, from which the NW corner of Section 19 bears N00°00'46"E a distance of 2642.40 feet, run thence S45°09'08"E a distance of 346.27 feet to a point on the easterly right-of-way of Highway 28 and the POINT LINE OF BEGINNING; thence S71°46'41"E to the East section line of Lot 3. Including any water rights to Miller Spring located in Section 19, Township 10 North, Range 30 East, Boise Meridian. EXCEPTING therefrom the following: Beginning at the Quarter Section Corner common to Section 29 and 30, Township 10 North, Range 30 East, Boise Meridian, where a stone in placed marked "¼" lies; thence along the center line of Section 30, S89°58'W 40 chains; thence N0°02'W 4.86 chains; thence N57°28'E 20.72 chains; thence N83°53'E 22.65 chains; thence S0°04'E along the Section line common to Sections 29 and 30, 18.38 chains to the point of beginning.

TOGETHER WITH the following:

1. All water rights which arise from Birch Creek which are appurtenant to the Gray Place. The Seller is by this instrument retaining title to the Gray Place and any water rights in Miller Spring located on the Gray Place. Provided, however, the Seller is transferring by this instrument to the Buyer all water rights arising from Birch Creek which are appurtenant to the Gray Place.

2. All State of Idaho, Bureau of Land Management and United States Forest Service Grazing privileges and permits which are appurtenant to the above described property and the Gray Place, or granted in connection with the use, possession or ownership of such property.

3. All contract rights and rights to payment pertaining to the above described property (including the Gray Place) under the current contract for the Conservation Reserve Program administered by the United States Department of Agriculture and the Agricultural Stabilization and Conservation Committee.

4. All and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, including, but not limited to, all buildings, fences, headgates situate thereon, and all mineral rights, water rights and ditch rights, and the reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the property, as well in law as in equity, of Seller.

SUBJECT TO the following:

1. Right-of-way conveyed to State of Idaho for highway purposes as to 100 feet strip over and across SW¼ SE¼ and SW¼ and SW¼ NW¼ of Section 32, Township 10 North, Range 30 East, Boise Meridian, by Instrument recorded July 14, 1938, in Book 8 of Deeds, page 603, together with an easement for construction of irrigation or drain ditches and structures and surface drain ditches as may be necessary for proper construction of highway on property adjacent to right-of-way granted.

2. Rights-of-way conveyed to State of Idaho, for highway purposes as to 100 foot strip over NE¼ NW¼ of Section 32, Township 10 North, Range 30 East, Boise Meridian, by easements recorded July 14, 1938, in Book 9 of Deeds, page 604, 605, and 607, together with an easement for construction of irrigation or drain ditches and structures and surface drain ditches as may be necessary for proper construction of highway on property adjacent to right-of-way granted.

3. Right-of-way for highway by Right-of-Way Deed granted to The State of Idaho describing highway 100 feet wide over the NE¼ NE¼ of Section 14, Township 10 North, Range 39 East, Boise Meridian, dated January 8, 1938, recorded July 14, 1938, in Book 9 of Deeds, page 611, records of Clark County, Idaho.

4. Right-of-way for highway purposes granted to The State of Idaho, over and across SE¼ NW¼ of Section 11, Township 10 North, Range 29 East, Boise Meridian, and easement for relocation of ditches, etc., by instrument dated January 14, 1938, recorded July 14, 1938, in Book 9 of Deeds, page 612, records of Clark County, Idaho.

5. Order of Condemnation for highways in favor of the County of Clark, Plaintiff, dated November 10, 1939, and recorded in Book 2 of Judgments, page 297, records of Clark County, Idaho.

6. Easements over portion of said land for pole lines and incidental purposes as granted Utah Power and Light Company, by deeds recorded October 20, 1965, in Book 5 of Misc., page 228, 229, 230 and 231, records of Clark County, Idaho.

7. Mortgage dated November 22, 1974, executed by G. Marshall Bare and H. Margery Bare, husband and wife, to The Federal Land Bank of Spokane, a corporation, to secure the payment of Two Hundred Fifty-Five Thousand Dollars ($255,000.00) and interest; recorded November 27, 1974, as filing No. 30119, records of Clark County, Idaho.

8. A Notice of Real Estate Sale Contract and Lien Interests Against Escrowed Contract and Proceeds Thereunder by and between the parties named below:

| | |
|---|---|
| Dated: | April 3, 1975 |
| Seller: | G. Marshall Bare and H. Margery Bare, husband and wife. |
| Buyer: | William T. Simmons and Theola Simmons, husband and wife. |
| Recorded: | April 3, 1975, at 10:15 a.m. as Instrument No. 30405, records of Clark County, Idaho. |

9. Assignment of Real Estate Sale Contract by and between the following parties:

| | |
|---|---|
| Dated: | June 25, 1984 |
| Executed by: | G. Marshall Bare and H. Margery Bare, husband and wife, and The Idaho First National Bank |
| Recorded: | July 13, 1984, at 9:20 a.m. as Instrument No. 38659, records of Clark County, Idaho. |

10. Assignment of Real Estate Sale Contract by and between the following parties:

Dated: May 28, 1985
Executed by: G. Marshall Bare and H. Margery Bare, husband and wife, and The Idaho First National Bank, an Idaho banking corporation.
Recorded: June 7, 1985, at 9:23 a.m. as Instrument No. 39314, records of Clark County, Idaho.

11. A Pole Line Easement with rights incidental thereto as set forth in a document

Granted by: William T. Simmons and Theola Simmons, husband and wife.
Granted to: Utah Power & Light Company, a corporation
Dated: July 27, 1977
Recorded: September 1, 1977, at 10:19 a.m. as Instrument No. 32186, records of Clark County, Idaho.

12. A Pole Line Easement with rights incidental thereto as set forth in a document

Granted by: William T. Simmons and Theola Simmons, husband and wife.
Granted to: Utah Power & Light Company, a corporation
Dated: September 29, 1977
Recorded: November 7, 1977, at 9:05 a.m. as Instrument No. 32309, records of Clark County, Idaho.

13. A Memorandum of Contract of Sale dated July 1, 1986, by and between G. Marshall Bare and H. Margery Bare, husband and wife, and William T. Simmons and Theola Simmons, husband and wife, recorded as Instrument No. 40283 on July 3, 1986, at 10:22 a.m., records of Clark County, Idaho. Rerecorded as Instrument No. 41682 on April 5, 1988, at 3:59 p.m., records of Clark County, Idaho.

14. The interest of G. Marshall Bare and H. Margery Bare under that certain Contract of Sale dated April 3, 1975, entered into between G. Marshall Bare and H. Margery Bare, husband and wife, as Seller and William T. Simmons and Theola Simmons, husband and wife, as Buyer (the "BARE CONTRACT"). Grantee has agreed to assume the obligations of Grantor under the BARE CONTRACT and to pay the same in full according to the terms thereof.

15. All existing easements or claims of easements, patent reservations, rights of way, protective covenants, zoning ordinances and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, rents, issues and profits therefrom; and all estate, right, title and interest in and to the property, as well in law as in equity, of the Grantor.

TO HAVE AND TO HOLD the premises and the appurtenances unto the Grantee, and to the Grantee's successors and assigns forever. The Grantor and the Grantor's heirs shall warrant and defend the premises in the quiet and peaceable possession of the Grantee and the Grantee's successors and assigns, against the Grantor and the Grantor's heirs, and against every person whomsoever who lawfully holds (or who later lawfully claims to have held) rights in the premises as of the date hereof.

Grantor by this instrument is hereby granting, conveying and confirming unto Grantee and to Grantee's successors and assigns forever all right, title and interest now owned or hereafter acquired by the Grantor in the above-described property.

In construing this Warranty Deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has executed the within instrument the day and year first above written.

William T. Simmons, Individually

William T. Simmons, as personal representative of the Estate of Theola Simmons

STATE OF IDAHO )
)ss.
County of Jefferson )

On the this 29 day of February, 1996, before me, the undersigned, a notary public, in and for said State, personally appeared **WILLIAM T. SIMMONS**, individually, known or identified to me 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.

Jay Simmons
Notary Public for Idaho
(seal) Residing at Jefferson County, Idaho
My Commission Expires: June 9 2001

STATE OF IDAHO )
)ss.
County of Jefferson )

On the 29 day of February, 1996, before me, the undersigned, a notary public in and for said State, personally appeared **WILLIAM T. SIMMONS**, known or identified to me to be the person whose name is subscribed to the within instrument as Personal Representative of the Estate of Theola Simmons and acknowledged to me that he executed the same as such Personal Representative.

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

Jay Simmons
Notary Public for Idaho
(seal) Residing at Jefferson County, Idaho
My Commission Expires: June 9 2001

G:\WPDATA\AHN8907\STMS0103.WD.srs

ATTACHMENT NO. 3B

46508

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

# GRANT DEED
## (With After Acquired Property Clause)

THIS INDENTURE is made this 29th day of January, 1996, between **WILLIAM T. SIMMONS**, individually and as Personal Representative of the Estate of Theola Simmons, the "Grantor", and **BIRCH CREEK RANCHES, L.L.C.**, an Idaho limited liability company, whose mailing address is 5203 South 11 East, Idaho Falls, Idaho, 83404, the "Grantee".

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) lawful money of the United States of America, and other good and valuable consideration, to the Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, and by these presents does grant and confirm unto the Grantee, and to Grantee's successors and assigns forever, all of the following described property in the County of Clark, State of Idaho, to-wit:

Township 10 North, Range 30 East of the Boise Meridian, Clark County, Idaho.

Section 32: Beginning at a point that is S0°04'E along the Section line 400.0 feet and East 462.0 feet from the NW Corner of said Section 32 and running thence N0°4'W 208.60 feet; thence S56°35'20" E 115.55 feet; thence S7°44'W 147.18 feet; thence S9°40'E 30.0 feet; thence S78°11'30"W 83.15 feet; thence N0°04'W 47.46 feet to the point of beginning.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, and rents, issues and profits therefrom; and all estate, right, title and interest in and to said property, as well in law as in equity, of the Grantor.

TO HAVE AND TO HOLD, the premises and the appurtenances unto the Grantee, and to Grantee's successors and assigns forever.

Grantor by this instrument is hereby granting, conveying and confirming unto Grantee and to Grantee's successors and assigns forever all right, title and interest now owned or hereafter acquired by the Grantor in the above-described property.

In construing this deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has executed the within instrument the day and year first above written.

William T. Simmons, Individually

William T. Simmons, as personal representative of the Estate of Theola Simmons

STATE OF IDAHO )
)ss.
County of Jefferson )

On the this 29 day of January, 1996, before me, the undersigned, a notary public, in and for said State, personally appeared **WILLIAM T. SIMMONS**, individually, known or identified to me 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.

Notary Public for Idaho
Residing at Jefferson County, Idaho
My Commission Expires: June 9 2001

(seal)

46508
Microfilm No. 46508
11 Day March 19 96
At 15:55 P.M.
JO ANN S. TAVENNER
Clerk
Fee 9.00
Erica Ruiz Deputy
Recorded for
Holden Kidwell Hahn & Crapo

STATE OF IDAHO )
)ss.
County of Jefferson )

On the 29 day of January, 1996, before me, the undersigned, a notary public in and for said State, personally appeared **WILLIAM T. SIMMONS**, known or identified to me to be the person whose name is subscribed to the within instrument as Personal Representative of the Estate of Theola Simmons and acknowledged to me that he executed the same as such Personal Representative.

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

Notary Public for Idaho
Residing at Jefferson County, Idaho
My Commission Expires: June 9 2001

(seal)

G:\WPDATA\CAH\8967\SIMS0103.GRD:srs

ATTACHMENT NO. 3C

RECEIVED 46507
APR 0 2 1996
Department of Water Resources
Eastern Region

# QUITCLAIM DEED

THIS INDENTURE is made this 29th day of January, 1996, by and between **WILLIAM T. SIMMONS**, individually, the "Grantor," and **WILLIAM T. SIMMONS**, Trustee of the Theola Simmons Family Trust, or any successor trustee, whose mailing address is P.O. Box 9, Terreton, Idaho, 83450, the "Grantee".

**WITNESSETH:**

That the Grantor, for and in consideration of the sum of Ten and No/100 Dollars ($10.00) lawful money of the United States of America and other good and valuable consideration to Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, does by these presents remise, release and forever quitclaim unto the Grantee, and to Grantee's successors and assigns forever, all right, title and interest now owned or hereafter acquired by the Grantor in all the following described real estate in the County of Clark, State of Idaho, to-wit:

All of the North Half of Section 30, Township 10 North, Range 30 East lying East of the Highway 28 right-of-way. The Southwest 1/4 of the Southeast ¼, Section 19, Township 10 North, Range 30 East; the Southeast ¼ of the Southwest ¼ of Section 19, Township 10 North, Range 30 East lying East of Highway 28 right-of-way; Lot 4 of Section 19, Township 10 North, Range 30 East lying East of Highway 28 right-of-way. That portion of Lot 3, Section 19, Township 10 North, Range 30 East, East of Highway 28 right-of-way and South of a line more particularly described as follows: Commencing at the West ¼ corner of said Section 19, from which the NW corner of Section 19 bears N00°00'46"E a distance of 2642.40 feet, run thence S45°09'08"E a distance of 346.27 feet to a point on the easterly right-of-way of Highway 28 and the POINT LINE OF BEGINNING; thence S71°46'41"E to the East section line of Lot 3. Including any water rights to Miller Spring located in Section 19, Township 10 North, Range 30 East, Boise Meridian. EXCEPTING therefrom the following: Beginning at the Quarter Section Corner common to Section 29 and 30, Township 10 North, Range 30 East, Boise Meridian, where a stone in placed marked "¼" lies; thence along the center line of Section 30, S89°58'W 40 chains; thence N0°02'W 4.86 chains; thence N57°28'E 20.72 chains; thence N83°53'E 22.65 chains; thence S0°04'E along the Section line common to Sections 29 and 30, 18.38 chains to the point of beginning.

TOGETHER, with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, and rents, issues and profits therefrom.

TO HAVE AND TO HOLD the said premises and the appurtenances unto the Grantee, and to Grantee's heirs and assigns forever.

In construing this Quitclaim Deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has executed the within instrument the day and year first above written.

William T. Simmons, Individually

STATE OF IDAHO )
)ss.
County of Jefferson )

On the this 29 day of January, 1996, before me, the undersigned, a notary public, in and for said State, personally appeared **WILLIAM T. SIMMONS**, individually, known or identified to me 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.

(seal)

Notary Public for Idaho
Residing at Jefferson County, Idaho
My Commission Expires: June 9 2001

G:\WPDATA\CAH\8967\SIMS0104 QCD srs

Instrument # 46507
11 March 96
At 15:52 P
JOANN S. TAVENNER
Clerk
Fee 6.00
Erica Ruiz
Recorder
Holden, Kidwell, Hahn & Crapo

ATTACHMENT NO. 4

RECEIVED

APR 0 2 1996

Department of Water Resources
Eastern Region

# POINT(S) OF DIVERSION FOR SIMMONS WATER RIGHTS APPURTENANT TO 960 ACRES

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|---|---|---|---|---|---|---|---|---|
| | | NW | NE | 24 | 10N | 29E | Clark | |
| | | NE | SE | 24 | 10N | 29E | Clark | |
| | | SE | NE | 24 | 10N | 29E | Clark | |
| | | SW | SW | 29 | 10N | 30E | Clark | |
| | | NW | NW | 32 | 10N | 30E | Clark | |
| | | NE | NE | 14 | 10N | 29E | Clark | |
| | | NE | SW | 11 | 10N | 29E | Clark | |

G:\WPDATA\KWF\6936\BRCH.NO7 sjw

ATTACHMENT NO. 5

RECEIVED
DEC 17 1996
Department of Water Resources
Eastern Region

# LANDS IRRIGATED OR PLACE OF USE FOR SIMMONS WATER RIGHTS

| Twp. | Rge. | Sec. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 10N | 29E | 11 | | | | | | 30 | 35 | 35 | 30 | | | | | 35 | 10 | 40 | 215 |
| | | 12 | | | | | | | | | | | 35 | | | | | | 35 |
| | | 13 | | | | | | 35 | 40 | | | 15 | | | | | | | 90 |
| | | 14 | 35 | | | 20 | | | | | | | | | | | | | 55 |
| | | 24 | | | | | | | | | | | | | | | | 25 | 25 |
| | | 25 | 10 | | | | | | | | | | | | | | | | 10 |
| 10N | 29E | 19 | | | | | | | 30 | | | 10 | 15 | 35 | | | 20 | | 110 |
| | | 29 | | | | | | | | | | | 20 | | | | | | 20 |
| | | 30 | 10 | 20 | 30 | 20 | 20 | 35 | | 35 | | | | | | | | | 170 |
| | | 32 | | 5 | 15 | | 35 | 20 | | 40 | 35 | | | | | 40 | 40 | | 230 |

Total Acres 960

G:\WPDATA\KWF\6936\BRCH.NO8.sjw

(See reverse for Privacy Statement)

Form Approved - OMB No. 0560-0125

CRP-1 (07-18-91)

U.S. DEPARTMENT OF AGRICULTURE
Agricultural Stabilization and Conservation Service

# CONSERVATION RESERVE PROGRAM CONTRACT

| 1. ST & CO Code & C/D | 2. SIGN-UP NUMBER |
|---|---|
| 16 033 4 | 04 |
| **3. CONTRACT NUMBER** | **4. ACRES FOR CRP** |
| 146 29 | 662.0 |
| **5. FARM NUMBER** | **6. RENTAL RATE PER ACRE** |
| 286 2655 | $ 45.00 |

7. COUNTY OFFICE ADDRESS & TELEPHONE NUMBER
Clark County ASCS Office
P.O. Box 206
Dubois, ID 83423
(208) 374-5425

Transferred to Jefferson Cty 1996

8. BID TYPE (Select one)
STANDARD [X] EASEMENT [ ] WELLHEAD STANDARD [ ] WELLHEAD EASEMENT [ ]

*THIS CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners, operators, or tenants (referred to as "Owner", "Operator", and "Tenant", respectively) on the farm identified above and below. The undersigned person or persons shall hereafter be referred to as "the Participant." The Participant agrees to place the designated acreage into the Conservation Reserve Program ("CRP") for the stipulated contract period from the date the Contract is executed by the CCC. The Participant also agrees to implement on such designated acreage the Conservation Plan developed for such acreage and approved by the CCC and the Participant. Additionally, the Participant agrees to convey to the CCC a conservation easement over those areas subject to this contract which are to be established or maintained as living snow fences, permanent wildlife habitat, windbreaks, shelterbelts, or filterstrips for the useful life of such plantings. The easement shall be of a form and conveyed in accordance with such title and other requirements prescribed by this contract, including a right of access to such land. Payment under this CRP Contract is conditioned upon the granting of these rights to CCC and upon those rights being superior to that of any other person or entity. The Participant and CCC agree to comply with the terms and conditions contained in this Contract including the Appendix to this Contract, entitled Appendix to CRP-1, Conservation Reserve Program Contract (referred to as "Appendix"). By signing below, the Participant acknowledges that a copy of the Appendix for the applicable sign-up period has been provided to such person and that such person has signed the last page of such Appendix. Such person also agrees to allow CCC a period of 30 days from the close of the applicable signup period to accept this Contract and agrees to pay such liquidated damages in an amount specified in the Appendix if the Participant does not allow CCC such 30-day period in which to execute this Contract. The terms and conditions of this contract are contained in this Form CRP-1 and in the CRP-1 Appendix and any addendum thereto. BY SIGNING THIS CONTRACT PRODUCERS ACKNOWLEDGE RECEIPT OF THE FOLLOWING FORMS: CRP-1, CRP-1 Appendix and any addendum thereto, CRP-1 Continuation, CRP-2, and CRP-18.*

Do you intend to Alley Crop Acres for CRP? If "YES", complete Item 9.
YES [ ]
NO [X]

**9. OFFER FOR PERMISSION TO ALLEY CROP**

*Based on the $ _____ per acre offer to participate in CRP under CP19, Alley Cropping, I/we submit an offer of $ _____ per acre reduction, from the amount specified in Item 6, in the annual rental payments for permission to produce agricultural commodities on eligible acres in accordance with the provisions for alley cropping set out in the Appendix.*

*I/we understand that for each year of the CRP contract the annual rental payment will be reduced by the amount agreed to above and that an annual payment reduction of less than 50 percent will not be accepted.*

**10. OWNERS AND OPERATORS**

| | | |
|---|---|---|
| A. OPERATOR NAME AND ADDRESS<br>Birch Creek Ranches<br>2988 Tipperary<br>Idaho Falls, ID 83401 | 100 % | SOCIAL SECURITY NUMBER 82-0427685 Birch Creek Ranches Inc<br>SIGNATURE by [signature] DATE 11/15/91 |
| B. OWNER NAME AND ADDRESS<br>Ted Sorenson<br>550 Linden<br>Idaho Falls, ID 83401 | 0 % | SOCIAL SECURITY NUMBER 519 62 1957<br>SIGNATURE [signature] DATE 11/15/91 |
| C. NAME AND ADDRESS<br>Gayle Sorenson<br>550 Linden<br>Idaho FAlls, ID 83401 | % | SOCIAL SECURITY NUMBER 519 52 8222<br>SIGNATURE by [signature] DATE 11/15/91 |

**11. ANNUAL PAYMENTS FOR THIS CONTRACT WILL BE PAID AS FOLLOWS:**

| FISCAL YEAR 12 | AMOUNT 13 | FISCAL YEAR 14 | AMOUNT 15 |
|---|---|---|---|
| 1987 | $29,790 | 1995 | $29,790 |
| 1988 | $29,790 | 1996 | $29,790 |
| 1989 | $29,790 | | |
| 1990 | $29,790 | | |
| 1991 | $29,790 | | |
| 1992 | $29,790 | | |
| 1993 | $29,790 | | |
| 1994 | $29,790 | *(Item 13 and Item 15)* TOTAL AMOUNT | $297,900 |

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APR 02 1996
Department of Water Resources
Eastern Region

16. CCC USE ONLY - Payments according to the shares are approved.
SIGNATURE OF CCC REPRESENTATIVE [signature] DATE 12-10-91

*This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, creed, age, sex, nat*

ORIGINAL - COUNTY OFFICE COPY

ATTACHMENT NO. 6B

CRP-1
(02-21-86)

U.S. DEP
Agricultural St
Commodity Credit Corporation

Form Approved - OMB No. 0560-0[illegible]

CONSERVATION RESERVE PROGRAM CONTRACT

| 1. CO. CODE & | 2. CONTRACT NO. |
|---|---|
| 16 033 4 | 18 |
| | 3. FARM NO. 128 |

**NOTE:** *The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a): The authority for requesting the information to be supplied on this form is the Food Security Act of 1985, P.L. 99-198, and the regulations promulgated thereunder (7 CFR Part 704) and the Internal Revenue Code (26 USC 6109). The information requested is necessary for CCC to consider and process the offer to enter into a Conservation Reserve Program Contract, to assist in determining eligibility, and to determine the correct parties to the contract. The information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court magistrate, or administrative tribunal. Furnishing of the Social Security Number (SSN) is mandatory. Furnishing all other information is voluntary; however, failure to furnish the correct, complete information requested will result in rejection of the offer to enter into the contract.*

THIS CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners and operators (referred to as "Owner" and "Operator", respectively) on the farm identified above (referred to as "Farm") for the fields and acres (referred to as "designated acreage") identified in Items 8-17 below and on the CRP-1A Addendum, as applicable. The Owner and Operator agree to place the designated acreage into the Conservation Reserve Program ("CRP") for a period of 10 crop years from the date the Contract is executed by the CCC. The Owner and Operator also agree to implement on such designated acreage the Conservation Plan developed for such designated acreage and approved by the applicable local conservation district based upon the conservation practices identified in Items 10 and 15 below and in Items 4 and 9 on the CRP-1A Addendum or such other conservation practices as are identified in the Conservation Plan and agreed to by the Owner and Operator. The Owner and Operator and CCC agree to comply with the terms and conditions contained in this Contract and contained in the Appendix to this Contract, entitled Appendix to CRP-1, Conservation Reserve Program Contract (referred to as "Appendix"). By signing below, each Owner and Operator acknowledges that a copy of the Appendix has been provided to the Owner and Operator and that the Owner and Operator has signed the last page of such Appendix which will be kept on file in the County Agricultural Stabilization and Conservation Service (ASCS) Office. By signing below, the Owner and Operator also agree to allow CCC a period of 30 days from the close of the applicable signup period to accept this Contract and agree to pay liquidated damages in an amount specified in the Appendix if the Owner and Operator do not allow CCC such 30-day period in which to execute this Contract.

**4. OWNERS AND OPERATORS**

| | SHARE | SSN / SIGNATURE | DATE |
|---|---|---|---|
| A. OPERATOR NAME AND ADDRESS<br>WM. SIMMONS | 100 % | SSN 518 46 9077<br>SIGNATURE Wm T. Simmons | 2-25-87 |
| B. OWNER NAME AND ADDRESS | % | SSN<br>SIGNATURE | |
| C. NAME AND ADDRESS | % | SSN<br>SIGNATURE | |
| D. NAME AND ADDRESS | % | SSN<br>SIGNATURE | |

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APR 0 2 1996
Department of Water Resources
Eastern Region

| 5. ACRES FOR CRP | | 6. RENTAL RATE PER ACRE | 7. CONTRACT PERIOD FROM | TO |
|---|---|---|---|---|
| 819.1 | 662.0<br>113.8<br>43.3 Bcm.<br>819.1 | $45 00 | 1987 | 1997 |

| TRACT NO. | FIELD NO. | PRACTICE NO. | ACRES | RATE OF COST-SHARES | TRACT NO. | FIELD NO. | PRACTICE NO. | ACRES | RATE OF COST-SHARES |
|---|---|---|---|---|---|---|---|---|---|
| 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 633 | 1 | | 92.2 | | | 6 | | 46.2 | |
| | 2 | | 21.3 | | | 7 | | 22.4 | |
| | 3 | | 21.9 | | | 8 | | 47.2 | |
| | 4 | | 31.1 | | | 9 | | 47.1 | |
| | 5 | | 32.7 | | 633 | 10 | | 46.2 | |

| 18. ANNUAL PAYMENT | 19. CCC USE ONLY - *Payments according to the shares are approved* | CCC REPRESENTATIVE'S SIGNATURE | DATE |
|---|---|---|---|
| 36,868.00 | | COPY | |

Form Approved - OMB No. 0560-0125

CRP-1A Addendum
(02-21-86)

U.S. DEPARTMENT OF AGRICULTURE
Agricultural Stabilization and Conservation Service
Commodity Credit Corporation

# ADDENDUM TO THE CONSERVATION RESERVE PROGRAM (CRP) CONTRACT

**NOTE:** *The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a): The authority for requesting the information to be supplied on this form is the Food Security Act of 1985, P.L. 99-198, and the regulations promulgated thereunder (7 CFR Part 704) and the Internal Revenue Code (26 USC 6109). The information requested is necessary for CCC to consider and process the offer to enter into a Conservation Reserve Program Contract, to assist in determining eligibility, and to determine the correct parties to the contract. The information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court, magistrate, or administrative tribunal. Furnishing of the Social Security Number (SSN) is mandatory. Furnishing all other information is voluntary; however, failure to furnish the correct, complete information requested will result in rejection of the offer to enter into the contract.*

1. Each owner and operator who has signed the CRP-1 Contract shall initial below to acknowledge that the Addendum is hereby incorporated as a part of the CRP-1 Contract.

| INITIALS | INITIALS | INITIALS | INITIALS | INITIALS |
|---|---|---|---|---|
| A. W.T.S. | | | | |
| B. | | | | |
| C. | | | | |
| D. | | | | |

| TRACT NO. | FIELD NO. | PRACTICE NO. | ACRES | RATE OF COST-SHARES | TRACT NO. | FIELD NO. | PRACTICE NO. | ACRES | RATE OF COST-SHARES |
|---|---|---|---|---|---|---|---|---|---|
| 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 633 ~~209~~ | 211 | | 165.7 | | | | | | |
| | 312 | | 55.6 | | | | | | |
| | 413 | | 14.3 | | | | | | |
| | 514 | | 21.1 | | | | | | |
| | 615 | | 9.0 | | | | | | |
| | 716 | | 23.2 | | | | | | |
| 632 ~~209~~ | 13 | | 19.9 | | | | | | |
| | 2 | | 1.5 | | | | | | |
| | 3 | | 18.9 | | | | | | |
| | 4 | | 24.6 | | | | | | |
| | 5 | | 5.4 | | | | | | |
| | 6 | | 14.1 | | | | | | |
| | 7 | | 17.1 | | | | | | |
| | 8 | | 17.1 | | | | | | |
| | 9 | | 33.7 | | | | | | |
| | 10 | | 10.2 | | | | | | |
| | 11 | | 10.5 | | | | | | |
| | 12 | | 13.9 | | | | | | |
| 633 ~~209~~ | 717 | | 35.0 | | | | | | |

KW

ELL HAH

Box 50130
Idaho Falls, ID 83405

ATTACHMENT NO. 7A

RECEIVED

APR 0 2 1996

Department of Water Resources
Eastern Region

# CORPORATION QUITCLAIM DEED

THIS INDENTURE, made this 16 day of ~~September~~ October, 1990, between WOODIE LAND & LIVESTOCK, INC., a corporation duly organized and existing under the laws of the State of Idaho and having its principal office in Idaho at Howe in Butte County, hereinafter referred to as "FIRST PARTY", and TED S. SORENSON and GAYLE A. SORENSON d/b/a SORENSON ENGINEERING, and BIRCH POWER COMPANY, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "SECOND PARTY", whose principal office in the State of Idaho and whose mailing address is:

2988 Tipperary Lane
Idaho Falls, Idaho 83404

**WITNESSETH:**

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY's right, title and interest now owned or hereafter acquired in and to the following described water right:

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| A32-00101 | 2.9 cfs | 06/04/1889 | Birch Creek |

TO HAVE AND TO HOLD said water right unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set its hand and corporate seal by its duly authorized officer the day and year first above written.

WOODIE LAND & LIVESTOCK, INC.

By: George Woodie
GEORGE WOODIE, President

(Corporate Seal)

STATE OF IDAHO )
) ss.
County of Butte )

On the 10 day of ~~September~~ October, in the year of 1990, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared GEORGE WOODIE, known or identified to me to be the President of WOODIE LAND & LIVESTOCK, INC., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

(seal)

Notary Public for Idaho
Residing at Howe Idaho
My Commission Expires: 4-6-99

#6936.00
192li/srr

43683

FILED FOR RECORD AT 45 MINUTES PAST 9 O'CLOCK A.M. THIS 1ST. DAY OF February 1991 AND RECORDED AS MICROFILM NO. 43683
RECORDS OF CLARK COUNTY, IDAHO
FEE 9.00 FILED ____ MICRFMD ____ INDXD ____ CHKD ____
RECORDED
BY Diana L Bromley DEPUTY

PLEASE RETURN TO:
[illegible] DWELL, P.
P. O. Box 50130
Idaho Falls, ID 83405

ATTACHMENT NO. 7B

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

# QUITCLAIM DEED

THIS INDENTURE, made this 31st day of January, 1991, between TED S. SORENSON and GAYLE A. SORENSON d/b/a SORENSON ENGINEERING, and BIRCH POWER COMPANY, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to collectively as "FIRST PARTY", and BIRCH CREEK RANCHES, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "SECOND PARTY", whose principal office in the State of Idaho and whose mailing address is:

2988 Tipperary Lane
Idaho Falls, Idaho 83404

**WITNESSETH:**

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY'S right, title and interest now owned or hereafter acquired in and to the following described water right:

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| A32-00101 | 2.9 cfs | 06/04/1889 | Birch Creek |

TO HAVE AND TO HOLD said water right unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set its hand and corporate seal individually and by its duly authorized officers the day and year first above written.

SORENSON ENGINEERING

By: _____
TED S. SORENSON

By: _____
GAYLE A. SORENSON

BIRCH POWER COMPANY, INC.

By: _____
TED S. SORENSON, President

Attest:

_____
Gayle A. Sorenson, Secretary

(Corporate Seal)

STATE OF IDAHO )
) ss.
County of Bonneville )

On the 31st day of January, in the year of 1991, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared TED S. SORENSON and GAYLE A. SORENSON d/b/a SORENSON ENGINEERING, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 1-14-92

(seal)

STATE OF IDAHO )
) ss.
County of Bonneville )

On the 31st day of January, in the year of 1991, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared TED S. SORENSON and GAYLE A. SORENSON, known or identified to me to be the President and Secretary of BIRCH POWER COMPANY, INC., the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 1-14-92

(seal)

#6936.00
5922i/srs

43684

FILED FOR RECORD AT 46 MINUTES PAST 9 O'CLOCK a M. THIS 1st
DAY OF February 1991 AND RECORDED AS MICROFILM NO. 43864
RECORDS OF CLARK COUNTY, IDAHO. RECORDER
FEE 9.00 FILED ____ MICROFILMED ____ INDEXED ____ PLAT ____
BY Joann Bromley DEPUTY

3 - QUITCLAIM DEED

[illegible] Rur

[illegible]
Idaho Falls, ID 83405

ATTACHMENT NO. 7C

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

# CORRECTION CORPORATION QUITCLAIM DEED

THIS INDENTURE, made this 3rd day of May, 1991, between WOODIE LAND & LIVESTOCK, INC., a corporation duly organized and existing under the laws of the State of Idaho, and having its principal office in Idaho at Howe, in Butte County, hereinafter referred to as "FIRST PARTY", and BIRCH CREEK RANCHES, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "SECOND PARTY", whose principal office is in the State of Idaho and whose mailing address is:

2988 Tipperary Lane
Idaho Falls, Idaho 83404

**WITNESSETH:**

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY's right, title and interest now owned or hereafter acquired in and to the following described water right:

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| A32-00101 | 2.9 cfs | 06/04/1909 | Birch Creek |

THIS DEED is intended to correct a mistake in the priority date of the water right described in that Corporation Quitclaim Deed heretofore recorded as Instrument No. 43683 of the records of Clark County, Idaho, on the 1st day of February, 1991.

TO HAVE AND TO HOLD said water right unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set its hand and corporate seal by its duly authorized officer the day and year first above written.

WOODIE LAND & LIVESTOCK, INC.

By: George Woodie
GEORGE WOODIE, President

(Corporate Seal)

STATE OF IDAHO )
) ss.
County of Butte )

On the 3rd day of May, in the year of 1991, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared GEORGE WOODIE, known or identified to me to be the President of WOODIE LAND & LIVESTOCK, INC., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Carol J Wesler
Notary Public for Idaho
Residing at Boise
My Commission Expires: 1-4-96

(seal)

#6936.00
192li/srr

43808

FILED FOR RECORD AT 07 MINUTES PAST 4 O'CLOCK P M. THIS 8th DAY OF May 1991 AND RECORDED AS MICROFILM NO. 43808
RECORDS OF CLARK COUNTY, IDAHO
RECORDER
FEE 6.00 FILED MICRFMD INDXD PLAT
BY Joan D. Wolfley
DEPUTY

ATTACHMENT NO. 7D

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

# CORPORATION QUITCLAIM DEED

THIS INDENTURE, made this 21st day of February, 1996, Between BIRCH CREEK RANCHES, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "FIRST PARTY", and BIRCH CREEK RANCHES, L.L.C., an Idaho Limited Liability Company, hereinafter referred to as "SECOND PARTY", whose principal office in the State of Idaho and whose mailing address is:

5203 South 11th East
Idaho Falls, Idaho 83404

**WITNESSETH:**

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY'S right, title and interest now owned or hereafter acquired in and to the following described water right:

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| A32-00101 | 2.9 cfs | 06/04/1909 | Birch Creek |

TO HAVE AND TO HOLD said water right unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set its hand and corporate seal by its duly authorized officer the day and year first above written.

BIRCH CREEK RANCHES, L.L.C.

By: _____
Ted S. Sorenson, President

(Corporate Seal)

Microfilm No. 10394
29 Day February 1996
At 9:30 O'Clock A M
JO ANN S. TAVENNER
Clark Co. Recorder
Fee $ 9.00
_____ Deputy
Recorded at Request of
Ted Sorenson

STATE OF IDAHO )
) ss.
County of Bonneville)

On the 27th day of February, in the year of 1996, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared TED S. SORENSON, known or identified to me to be the President of BIRCH CREEK RANCHES, INC., the corporation that executed the above instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Jennifer L. Brumpton
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 2/12/01

(seal)

ATTACHMENT NO. 8A

Law Offices

**HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.**


FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS, P.A.
DALE W. STORER
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
FREDERICK J. HAHN, III

WEST ONE BANK BLDG.
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)


May 24, 1995


RECEIVED
ADD 2 1996
Department of Water Resources
Eastern Region


Mr. Harold Jones
IDAHO DEPARTMENT OF
WATER RESOURCES
900 N. Skyline
Idaho Falls, Idaho 83402-1718

Dear Harold:

We are enclosing with this letter an application for extension of time to avoid forfeiture of a water right together with our check in the amount of $100 for the filing fee. Please let us know if there are concerns or questions that we might be able to assist with.

This is the water right that Birch Creek Ranches purchased from George Woodie in late 1990. As we understand it the water master records indicate that the last time water was delivered to Mr. Woodie under this right was during the irrigation season of 1990.

Thank you for your kind attention to this matter.

Very truly yours,

Kent W. Foster

Enclosure
G:\WPDATA\KWF\6936\IDWR0524.LTR.sjw

ATTACHMENT NO. 8B

Water I[illegible]o. 32-00101

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APR 2 1996 APR 0 2 1996
Department of Water Resources Eastern Region Department of Water Resources Eastern Region

# STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES

COPY

## Application for Extension of Time to Avoid Forfeiture of a Water Right

Section 42-222 of the Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

Complete fully the following application and submit it to the Department of Water Resources, Statehouse, Boise, Idaho 83720, with the statutory fee.

1. Name of water right holder Birch Creek Ranches
   Post office address c/o Holden, Kidwell, Hahn & Crapo, P.O. Box 50130,
   Idaho Falls, Idaho 83405

2. The right was obtained or is evidenced by:
   a. Decree to Thomas J. Weimar (Name) in Case of AGNES B. RENO et al vs. J. R. RICHARDS et al, Dated 09/06/1922 in Ninth District Court, (Name of Court)
   County of Fremont. Fully describe decree _____

   b. License No. _____ issued by the Department of Water Resources.

   c. Claim No. _____ on file with the Department of Water Resources.

3. Source of water Birch Creek tributary to Sinks
   (Name of stream or source)

4. Date of priority of right June 4, 1909

5. Amount of water a. 2.9 c.f.s. and/or
   b. _____ acre fee/annum

6. Water is used for Irrigation from 4/1 to 11/1
   _____ from _____ to _____
   _____ from _____ to _____
   (Purpose) (Month-Day) (Month-Day)

7. Location of point of diversion is SE ¼ NE ¼ of Section 3
   Township 10N, Range 29E, B.M., in Clark County;
   Additional points of diversion, if any _____

8. Lands irrigated or place of use:

| Twp | Rge | Sec | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | |
| 10N | 29E | 2 | | | | | | | | | | | 12 | | | | | | 12 |
| | | 3 | | | | 5 | | | | | | | | | 19 | | | 28 | 52 |

Total number of acres irrigated 64

9. Give last date when water was applied to beneficial use irrigation season of 1990
Length of extension of time requested 5 years, or until April 1, 2000

10. Explain fully your reason for requesting an extension of time within which to resume the use of your water right and reasons for non-use Birch Creek Ranches purchased this right after the irrigation season of 1990 and an application to transfer this and several other rights was filed in February 1991. The proposed transfer was protested and the matter bogged down with complications for some time. Eventually the proposed new place of use became unavailable and the matter has been continued until applicant can complete the acquisition of a new proposed place of use.

I hereby assert that no one will be injured by such extension. The information contained in this application is true to the best of my knowledge.

(Signature of Applicant)

Ted Sorenon, Birch Creek Ranches

Subscribed and sworn to before me this 16 day of May, 1995

David E. Benton

(Notary Public)

My commission expires 11-06-96

---

**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby _____ said application subject to the following conditions or reasons.

_____

_____

_____

_____

_____

Witness my had this _____ day of _____, 19_____.

_____

(Director)

---

For Department Use Only

Received by _____ Date _____ Time _____ Preliminary check by _____ Fee $_____ Receipted by _____
Date _____ Publication prepared by _____ Published in _____
Dates _____ Publication approved by _____ Date _____
Protests filed by : _____
Copies of protests forwarded by _____ Hearing held by _____

Date _____ Recommended for ☐ approval ☐ denial by _____

ATTACHMENT NO. 9A

Microfilm No. 45823
14 Day June 19 95
At 13:10 O'Clock P M
JOANN S. TAVENNER
Clerk Co. Recorder
Fee $ 6.00
Marcia J. Bilicke Deputy
Recorded at Request of
Holden Kidwell Hahn & Crapo

# QUITCLAIM DEED

THIS INDENTURE, made this 27th day of September, 1994, between MAC WAGONER and BETTY WAGONER, husband and wife, hereinafter referred to as "FIRST PARTY", and BIRCH CREEK RANCHES, INC., an Idaho Corporation, hereinafter referred to as "SECOND PARTY", whose mailing address is:

2988 Tipperary Lane
Idaho Falls, Idaho 83404

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

**WITNESSETH:**

THAT FOR AND IN CONSIDERATION of ONE DOLLAR ($1.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, FIRST PARTY does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY'S right, title and interest in and to the following described water rights:

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| 32-0102 | 4.0 cfs | 05/10/1889 | Birch Creek |
| 32-0073 | .2 cfs | 05/15/1909 | Birch Creek |
| 32-0085 | .2 cfs | 05/10/1910 | Birch Creek |
| 32-0077 | .2 cfs | 05/15/1910 | Birch Creek |
| 32-0086 | .2 cfs | 05/01/1911 | Birch Creek |
| 32-0078 | .2 cfs | 05/15/1911 | Birch Creek |

| | | | |
|---|---|---|---|
| 32-0087 | .2 cfs | 05/01/1912 | Birch Creek |
| 32-0079 | .8 cfs | 05/15/1913 | Birch Creek |

TO HAVE AND TO HOLD said water rights unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set their hands and seals the day and year first above written.

Mac Wagoner

Mac Wagoner

Betty Wagoner

Betty Wagoner

STATE OF IDAHO )
)ss.
County of ~~Bonneville~~ Clark )

On the 27th day of September, in the year 1994, before me, the undersigned, a notary public in and for said State, personally appeared MAC WAGONER and BETTY WAGONER, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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.

Betty Kirkpatrick

Notary Public for Idaho
Residing at ~~Idaho Falls~~ Dubois, Idaho
My Commission Expires: 2-28-2000

(seal)

G:\WPDATA\KWF\6936\00WAG01.QTD:sjw

ATTACHMENT NO. 9B

46496

CORPORATION QUITCLAIM DEED

THIS INDENTURE, made this 27th day of February, 1996, Between BIRCH CREEK RANCHES, INC., a corporation duly organized and existing under the laws of the State of Idaho, hereinafter referred to as "FIRST PARTY", and BIRCH CREEK RANCHES, L.L.C., an Idaho Limited Liability Company, hereinafter referred to as "SECOND PARTY", whose principal office is in the State of Idaho and whose mailing address is:

5203 South 11th East
Idaho Falls, Idaho 83404

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region

WITNESSETH:

THAT FIRST PARTY, having been hereunto duly authorized by resolution of its Board of Directors, for and in consideration of TEN DOLLARS ($10.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, does by these presents hereby release, remise and forever quitclaim unto SECOND PARTY and its assigns and successors in interest, all of FIRST PARTY'S right, title and interest now owned or hereafter acquired in and to the following described water rights:

| IDAHO DEPARTMENT OF WATER RESOURCES IDENTIFICATION NO. | AMOUNT IN CFS | PRIORITY DATE | SOURCE |
|---|---|---|---|
| 32-0102 | 4.0 cfs | 05/10/1889 | Birch Creek |
| 32-0073 | 0.2 cfs | 05/15/1909 | Birch Creek |
| 32-0085 | 0.2 cfs | 05/10/1910 | Birch Creek |
| 32-0077 | 0.2 cfs | 05/15/1910 | Birch Creek |
| 32-0086 | 0.2 cfs | 05/01/1911 | Birch Creek |

| | | | |
|---|---|---|---|
| 32-0078 | 0.2 cfs | 05/15/1911 | Birch Creek |
| 32-0087 | 0.2 cfs | 05/01/1912 | Birch Creek |
| 32-0079 | 0.8 cfs | 05/15/1913 | Birch Creek |

TO HAVE AND TO HOLD said water right unto said SECOND PARTY, its assigns or successors in interest forever.

IN WITNESS WHEREOF, FIRST PARTY has hereunto set its hand and corporate seal by its duly authorized officer the day and year first above written.

BIRCH CREEK RANCHES, INC.

By: _____
Ted S. Sorenson, President

46496
Microfilm No.
29 Day February 19 96
At 9:32 O'Clock A M
JO ANN S. TAVENNER
Clark Co. Recorder
Fee $ 9.00
Marcia A. Bibb Deputy
Recorded at Request of
Ted Sorenson

STATE OF IDAHO )
) ss.
County of Bonneville)

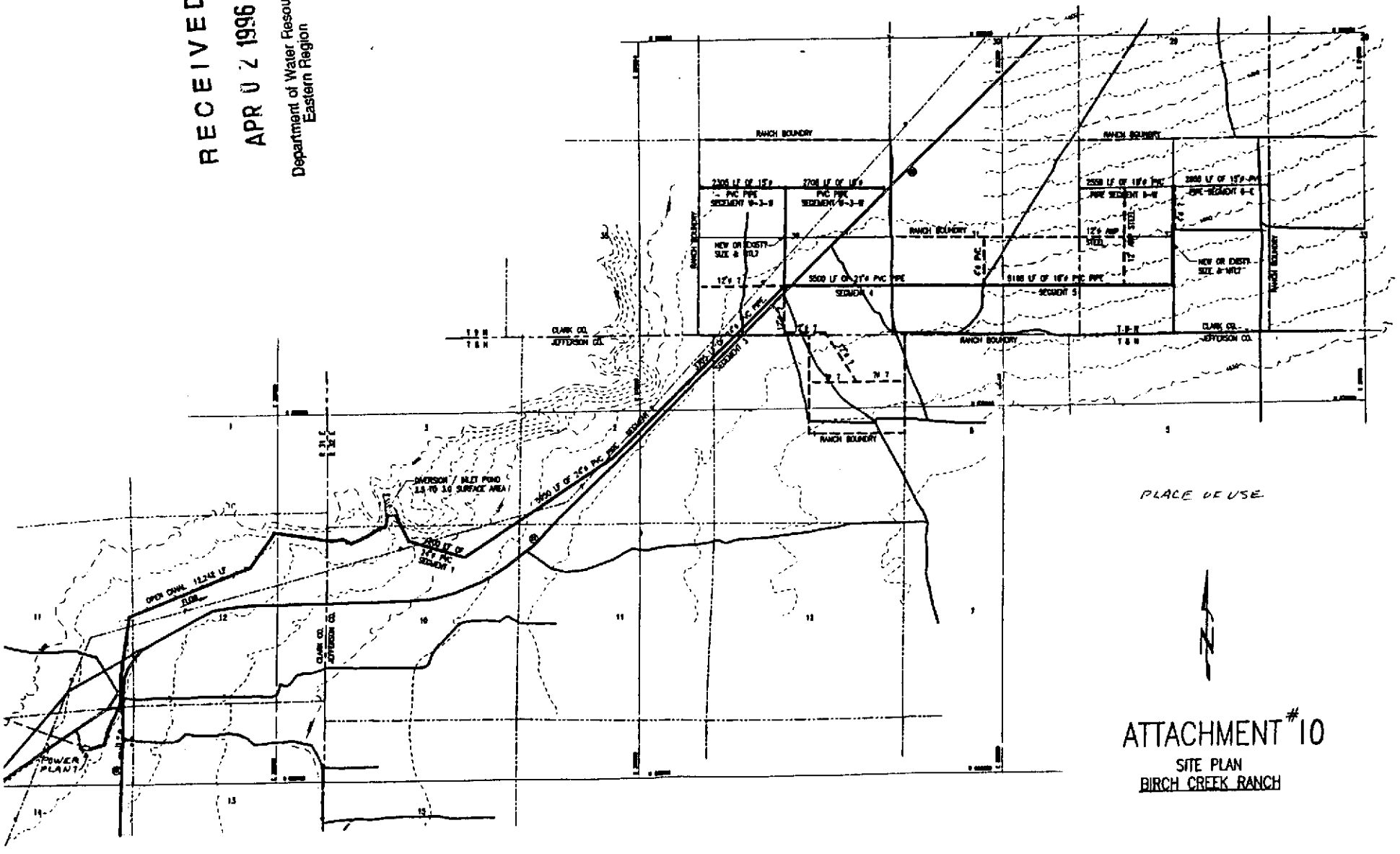
On the 27th day of February, in the year of 1996, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared TED S. SORENSON, known or identified to me to be the President of BIRCH CREEK RANCHES, INC., the corporation that executed the above instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Jennifer Brumpton
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 2/12/01

(seal)

ATTACHMENT NO. 10

RECEIVED
APR 0 2 1996
Department of Water Resources
Eastern Region




ATTACHMENT #10

SITE PLAN

BIRCH CREEK RANCH

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RECEIVED
JUN 30 1997
Department of Water Resources
Eastern Region

June 25, 1997

**RE:** In the Matter of Application for Permit No. 31-07646 in the name of Birch Creek Ranches, L.L.C.

Dear Interested Parties:

I have enclosed a copy of the **ORDER AUTHORIZING DISCOVERY.** issued in connection with the above referenced application for permit.

Please review the order and contact the department if you have any questions.

Sincerely,

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Region

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE**

**STATE OF IDAHO**

| | |
|---|---|
| IN THE MATTER OF APPLICATION FOR PERMIT NO. 31-07646 IN THE NAME OF BIRCH CREEK RANCHES, L.L.C. | **ORDER AUTHORIZING DISCOVERY** |

On June 11, 1997, the Twin Falls Canal Company, North Side Canal Company, Ltd. and Owsley Canal Company (protestants) by and through their attorney of record, Gary D. Slette, by motion requested the department to issue an order Authorizing Discovery pursuant to IDAPA Rules 37.01.01521 through 37.01.01531 (Rules of Procedure 521 through Rule 531). The applicant did not respond to the motion.

The Director of the department of Water Resources (Director) hereby authorizes the parties to engage in discovery commencing with the date of this order and continuing until further order of the presiding officer. Due to applicant's request to disqualify all department staff as hearing officers, an outside hearing officer shall be appointed by the Director. Discovery shall be conducted pursuant to IDAPA 37.01.01520-532 (Rules of Procedure 520 through 532). The parties are directed to answer or otherwise respond to discovery in accordance with the department's Rules of Procedure and the Idaho Rules of Civil Procedure, as appropriate.

In accordance with Rule 520, the scope of discovery shall be governed by Rule 26(b) of the Idaho Rules of Civil Procedure, unless otherwise provided by statute, rule or order of the Director.

DATED this 24th day of June, 1997.

KARL J. DREHER
Director

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 25th day of June, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER AUTHORIZING DISCOVERY** to the following:

Gary D. Slette
ROSHOLT ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, ID 83303-1906

Kent W. Foster
HOLDEN KIDWELL HAHN
& CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405-0130

Blair J. Grover
GROVER AND FAIRCHILD
215 Farnsworth Way
P.O. Box 36
Rigby, ID 83442-0036

George C. Peterson, Jr.
PETERSON MOSS OLSEN CARR
ESKELSON & HALL
485 E St.
Idaho Falls, ID 83402

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

WEST ONE BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
MICHAEL D. CRAPO
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
MARIE T. FEELEY
ROBERT M. FOLLETT

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
WILLIAM S. HOLDEN (1907-1988)

R. VERN KIDWELL, OF COUNSEL

April 6, 1990

Don Shenton, Watermaster
Water District 42
P.O. Box 33
Dubois, Idaho 83423

Dear Don:

In preparing for the hearing on the transfer application for Birch Creek Ranches, Inc., I had occasion to review the SRBA claims filed by Bill Simmons. They appeared in some cases to be a little inconsistent with the 1977 to 1983 transfer proceeding we helped Bill with, at least as far as my recollection went. I therefore have reviewed the transfer and the old decrees as carefully as I could and have now revised the SRBA claims slightly, and have prepared one new one.

Since the amendments will be filed soon, I thought it might be helpful to you to have access to the relevant documents, if you do not already, and to know what position we will be taking in the Snake River Basin Adjudication proceeding.

The main items I wanted to point out relate to Rights Nos. 32-0091, 32-0092, 32-0093, and 32-0088. The September 6, 1922, Decree in "Reno et al. v. Richards et al.", shows the source for all four of these water rights as Pass Creek. When we were doing the research for the Simmons transfer in 1977, we came across a document entitled "Judgment Correcting Clerical Error" entered into in the same "Reno v. Richards" case on September 8, 1937. I am enclosing a copy for you in case you do not already have one. It was quite clear that the source for 32-0093 was corrected to be Birch Creek. It was not as clear with respect to 32-0092, but after discussions with the Watermaster and those who were familiar with the operation of the property, we concluded, and we understand IDWR to have concluded as well, that the source for 32-0092 was also Birch Creek.

With respect to 32-0091 however, the 1937 Judgment did not correct the source. Again, the Watermaster and the former operators of the ranch all seemed adamant that 32-0091 had always been diverted from Birch Creek and not from Pass Creek. After some additional research, it became apparent that 32-0088 was also involved in the confusion. The source for 32-0088 was shown as Pass Creek, but it was also shown as being appurtenant to Simmons' land. The 1922 Decree mentions an exchange, but neither the Watermaster nor anyone else could recall anytime when this right had been treated as an exchange. What did seem to be clear, or at least was agreed upon by all parties at the time, was that virtually all Pass Creek water had been diverted and used by Clifton Wagoner and his predecessors for as long as anyone could remember during each irrigation season, and that Pass Creek water hardly ever reached Birch Creek during the irrigation season. Everyone also seemed to agree, including the Watermaster, that Rights Nos. 32-0091, 32-0092, and 32-0093, had always been diverted from Birch Creek for irrigation of the same portions of the Simmons property.

In any event, the Simmonses and Wagoners did reach an agreement and it was put in writing. Wagoners agreed that they had no claim to or interest in 32-0091, 32-0092, and 32-0093, and Simmonses agreed that they had no claim to or interest in 32-0088. This agreement was filed with IDWR with the application for transfer, and the approved transfer looks to us like it clearly confirms the source for Rights Nos. 32-0091, 32-0092, and 32-0093 as being Birch Creek. As we understand it, that is how the rights were administered both before and after the transfer was approved.

However, to our knowledge, Wagoners never went to the bother of formally transferring 32-0088. Number 32-0088 is, of course, for twice as much water as 32-0091. It has a July 29, 1907, priority, which is later than the May 1, 1901, priority for 32-0091, but that should not be terribly significant since (1) it should probably be one of the few rights on Pass Creek of any significance, and (2) Pass Creek is arguably not tributary to Birch Creek during the irrigation season anyway.

It seems to us that Blanche Wagoner would be well advised to claim Right No. 32-0088 in the Snake River Basin Adjudication, and perhaps also ought to claim that Pass Creek

is not tributary to Birch Creek during the irrigation season. It seems clear from the agreement she signed that she would have no right to claim #32-0091. We have prepared a new claim for Birch Creek Ranches, Inc. claiming Right No. 32-0091 in order to be consistent with the 1977 agreement between Wagoners and Simmonses, and the approved Transfer No. 2165.

So that you can adequately review our arguments, I have enclosed relevant portions of our file on the 1977 to 1983 transfer, #2165. As you will be able to see, the application was prepared through the efforts, both of our office and the Eastern Region Office of IDWR. The important items are, or course, the agreement between Simmonses and Wagoners, and the final approved transfer.

When you have had an opportunity to review all this paper, I would appreciate your thoughts.

Yours very truly,

Kent

Kent W. Foster

#6936.00/srr

Enclosure

Form 222a
6/78

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: _____

1. Right number _____ Applicant _____
2. Type of right: ☐ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
   ☐ Other _____
4. Check:
   a. ☐ Source ☐ Priority ☐ Amount ☐ Purpose ☐ Period of use
   b. ☐ Description of original point of diversion.
   c. ☐ Description of original place of use.
5. Amount of land &/or water transferred:
   a. ☐ All of right.
   b. ☐ Part of right *(NOTE! Part B should be filled in only if part of the right is owned by the applicant).*
   c. ☐ Check description of point(s) of diversion.
   d. ☐ Check description of place of use.
   e. ☐ Check map (shows p.d. and p.u. after transfer).
   f. ☐ Check for correct signature, notarization, and fee.
   g. ☐ Check proof of ownership of right &/or land from which water is transferred.
   h. ☐ Check for expansion in use of right. Comments _____
   _____
   i. ☐ Check for existing water rights from same source, on land water is being transferred to.
   Right number(s) _____
   j. ☐ Is use within a Watermaster District? ☐ Yes ☐ No
   If yes, what district? _____

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☒ Yes ☐ No NOP 8-4-97
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____
   _____
   _____
4. By _____ Date _____
   Copy Ad So 7-9-97

* *All uses within Watermaster Districts require special conditions.*

# The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707-0040

RB

## LEGAL ADVERTISING INVOICE

| Amount Due |
|---|
| $47.88 |

| Account Number/Trans. # | Identification | | |
|---|---|---|---|
| 100564 | Notice of Correction Amended Transfer No. 3553 | | |
| **Ordered By** | **P.O. Number** | **Rate** | **Run Dates** |
| Rita Bodell | | NT | July 17, 24, 1997 |

| | Estimated Inches | Real Inches |
|---|---|---|
| STATE OF IDAHO<br>DEPARTMENT OF WATER RESOURCES<br>900 N.SKYLINE DR<br>IDAHO FALLS, ID 83402-1718 | # Affidavits<br>1 | Legal Number<br>8118 |

**LEGAL NOTICE**
**NOTICE OF CORRECTION**
**AMENDED TRANSFER NO. 3553**

NOTICE IS HEREBY GIVEN that amended Transfer NO. 3553 in the name of Birch Creek Ranches, LLC, c/o Holden, Kidwell, Hahn & Crapo, PLLC, PO Box 50130, Idaho Falls, ID 83405 was advertised incorrectly in part on January 2 & 9, 1997. The purpose of the application as advertised was to change the point of diversion and place of use of 17 rights in the Birch Creek drainage.

Rights 32-00091 and 32-00068 were not listed with the current source that the applicant intended to identify.

Right 32-00091 Decreed to Edward Kaufman with a priority of May 1, 1901, in the amount of 0.50 cfs should have listed Birch Creek as the source.

Right 32-00068 Decreed to Wood Livestock Co, with a priority of May 10, 1887, in the amount of 3.20 cfs should have listed only Birch Creek at the Source.

Any protests against the granting of this transfer as a result of this correction must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Ste A., Idaho Falls, ID, 83402, with a $25 fee on or before August 4, 1997.

KARL J. DREHER, Director

Pub. July 17 & 24, 1997 8118

RECEIVED
JUL 31 1997
Department of Water Resources
Eastern Region

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for two

☒ consecutive weekly ☐ single
consecutive daily odd skip

insertion(s) beginning with the issue of
July 17, 1997
and ending with the issue of
July 24, 1997

Janice Hildreth

STATE OF IDAHO )
) ss.
COUNTY OF ADA )

On this 23 day of July in the year of 1997, before me, a Notary Public, personally appeared JANICE HILDRETH known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

JANIE MODIE NOTARY PUBLIC STATE OF IDAHO

Janie Modie
Notary Public for Idaho
Residing at: Boise, Idaho
My commission expires: 5703

# Proof of Publication

# The Post Register

State of Idaho
County of Bonneville

I, S. Bob Bright or Robert Park, first being duly sworn, depose and say: That I am the Production Supervisor or Asst. Prod. Supervisor of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the First day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than twelve consecutive months and said Post Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post Register for two consecutive (days) weeks, first publication having been made on the 17th day of July, 1997, last publication having been made on the 24th day of July, 1997, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Robert Park

Subscribed and sworn to before me, this 30th day of July , 1997

Patricia O'Malley
Notary Public

My commission expires January 3, 2003

STATE OF IDAHO ★ PATRICIA O'MALLEY ★ NOTARY PUBLIC

**NOTICE**

**OF CORRECTION AMENDED TRANSFER NO. 3553**

NOTICE IS HEREBY GIVEN that amended Transfer No. 3553 in the name of Birch Creek Ranches, LLC, c/o Holden, Kidwell, Hahn & Crapo, PLLC, PO Box 50130, Idaho Falls, ID 83405 was advertised incorrectly in part on January 2 & 9, 1997. The purpose of the application as advertised was to change the point of diversion and place of use of 17 rights in the Birch Creek drainage.

Rights 32-00091 and 32-00068 were not listed with the current source that the applicant intended to identify.

Right 32-00091 Decreed to Edward Kaufman with a priority of May 1, 1901, in the amount of 0.50 cfs should have listed Birch Creek as the source.

Right 32-00068 Decreed to Wood Livestock Co. with a priority of May 10, 1887, in the amount of 3.20 cfs should have listed only Birch Creek as the source.

Any protests against the granting of this transfer as a result of this correction must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Ste A, Idaho Falls, ID 83402, with a $25 fee on or before August 4, 1997.

Karl Dreher
Director

Published: July 17, 24, 1997

RECEIVED
JUL 31 1997
Department of Water Resources
Eastern Region

**NOTICE OF CORRECTION AMENDED TRANSFER NO. 3553**

NOTICE IS HEREBY GIVEN that amended Transfer No. 3553 in the name of Birch Creek Ranches, LLC, c/o Holden, Kidwell, Hahn & Crapo, PLLC, PO Box 50130, Idaho Falls, ID 83405 was advertised incorrectly in part on January 2 & 9, 1997. The purpose of the application as advertised was to change the point of diversion and place of use of 17 rights in the Birch Creek drainage.

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Karl Dreher, Director

PUBLISH: July 17 and 24, 1997

# Affidavit of Publication

STATE OF IDAHO }
COUNTY OF TWIN FALLS } SS.

№ 29582

I, Emily McKnight being first duly sworn upon oath, depose and say that I am principle clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive weeks,

commencing with the issue dated July 17, 19 97,

and ending with the issue dated July 24, 19 97.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 24th day of July in the year of 1997, before me, a Notary Public, personally appeared Emily McKnight, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Laura R. Feltman
Notary Public for Idaho
Residing at Twin Falls, Idaho.
My commission expires: 5/19/2000

**TRIBUNE PUBLISHING COMPANY, INC.**
The Lewiston Morning Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 07/24/97 INVOICE NO. 149370

Account No. 446600

Description 149370NOTICEOFCORRECTI

# LEGAL ADVERTISING INVOICE

Times 2 Lines 37

Tab. Lines

SOLD TO: IDAHO DEPT. OF WATER RESOURCES
900 N. SKYLINE
IDAHO FALL ID 83402

$ 50.88

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
**Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.**

---

# AFFIDAVIT OF PUBLICATION

149370

**NOTICE OF CORRECTION**
**AMENDED TRANSFER NO. 3553**

**NOTICE IS HEREBY GIVEN that amended Transfer No. 3553 in the name of Birch Creek Ranches, LLC, c/o Holden, Kidwell, Hahn & Crapo, PLLC, PO Box 50130, Idaho Falls, ID 83405 was advertised incorrectly in part on January 2 & 9, 1997. The purpose of the application as advertised was to change the point of diversion and place of use of 17 rights in the Birch Creek drainage.**

**Rights 32-00091 and 32-00068 were not listed with the current source that the applicant intended to identify. Right 32-00091 Decreed to Edward Kaufman with a priority of May 1, 1901, in the amount of 0.50 cfs should have listed Birch Creek as the source. Right 32-00068 Decreed to Wood Livestock Co. with a priority of May 10, 1887, in the amount of 3.20 cfs should have listed only Birch Creek as the source.**

**Any protests against the granting of this transfer as a result of this correction must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Ste A, Idaho Falls, ID 83402, with a $25 fee on or before August 4, 1997.**

**Karl Dreher**
**Director**

**Published statewide and in the POST REGISTER on July 17 & 24, 1997.**

STATE OF IDAHO, ss.
County of Nez Perce

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 149370NOTICEOFC attached hereto and which is made a part of this affadavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 07/17, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 07/17/97, and the last publication thereof being on the 07/24/97, and said 149370NOTICEOFC was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

SUBSCRIBED AND SWORN BEFORE ME THIS THE

day of 1997

Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires

NOTICE OF CORRECTION
AMENDED TRANSFER NO. 3553

NOTICE IS HEREBY GIVEN that amended Transfer No. 3553 in the name of Birch Creek Ranches, LLC, c/o Holden, Kidwell, Hahn & Crapo, PLLC, PO Box 50130, Idaho Falls, ID 83405 was advertised incorrectly in part on January 2 & 9, 1997. The purpose of the application as advertised was to change the point of diversion and place of use of 17 rights in the Birch Creek drainage.

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Any protests against the granting of this transfer as a result of this correction must be filed with the Idaho Department of Water Resources, 900 N. Skyline Dr., Ste A, Idaho Falls, ID 83402, with a $25 fee on or before August 4, 1997.

Karl Dreher
Director

Published statewide and in the POST REGISTER on July 17 & 24, 1997.

# Notice of Correction

Notice is hereby given that Transfer (Amended) No. 3553 in the name of Birch Creek Ranches LLC, c/o Holden Kidwell, Hahn + Crapo, PLLC, PO Box 50130 Idaho Falls ID 83405 was advertised incorrectly in part on Jan. 2 + 9, 1997. The purpose of the application as advertised was to change the point of diversion and place of use of 17 rights in the Birch Creek drainage.

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Any protests against the granting of this transfer as a result of this correction must be filed with the Idaho Department of Water Resources, 806 N. Skyline Dr Suite A, Idaho Falls, ID 83402 with a $25 fee on or before _____, 1997.

Karl J. Dreher
Director

Published in the State wide

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 9, 1997

CATHY VONVORSTEL
CLASSIFIED ADS
POST REGISTER
PO BOX 1800
IDAHO FALLS ID 83403

Dear Publisher:

Enclosed you will find a legal notice which we wish to have on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before AUGUST 4, 1997.

Yours truly,

Rita Bodell
Secretary

Enc.

**State of Idaho**
**DEPARTMENT OF WATER RESOURCES**
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 9, 1997

LINDA PORTER
CLASSIFIED ADS
IDAHO STATESMAN
PO BOX 40
BOISE ID 83707

Dear Publisher:

Enclosed you will find a legal notice which we wish to have on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

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Please send the affidavit of publication and publication billing to this office before AUGUST 4, 1997.

Yours truly,

Rita Bodell
Secretary

Enc.

**State of Idaho**
**DEPARTMENT OF WATER RESOURCES**
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 9, 1997

KAREN LEWIS
CLASSIFIED ADS
LEWISTON MORNING TRIBUNE
PO BOX 957
LEWISTON ID 83501

Dear Publisher:

Enclosed you will find a legal notice which we wish to have on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

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Yours truly,

Rita Bodell
Secretary

Enc.

**State of Idaho**
**DEPARTMENT OF WATER RESOURCES**
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 9, 1997

RUBY AUSDERHEIDE
CLASSIFIED ADS
TIMES NEWS
PO BOX 548
TWIN FALLS ID 83303

Dear Publisher:

Enclosed you will find a legal notice which we wish to have on the dates indicated in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before AUGUST 4, 1997.

Yours truly,

Rita Bodell

Rita Bodell
Secretary

Enc.

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 9, 1997

HOLDEN KIDWELL HAHN & CRAPO PLLC
BIRCH CREEK RANCHES LLC
PO BOX 50130
IDAHO FALLS ID 83405

RE: Notice of Amended Application for Transfer No. 3553

Dear Applicant:

This office is currently in the process of advertising the notice of correction for the amended application for transfer in the Post Register and statewide on July 17 & 24, 1997. The advertisement will be published once a week for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Harold W. Jones rb

Harold W. Jones
Water Right Supervisor

HWJ/rb

Ron C.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
ALAN G. LANCE

COPY

May 8, 1997

LaVar Newman
Louise Newman
2941 North 800 East
Monteview, Idaho 83435

Re: Amendment of Water Rights Permit No. 32-07128 and 32-07136
in the name of Ted Sorenson

Dear Mr. and Mrs. Newman:

According to Mr. Jerry Rigby's letter dated April 29, 1997, you have purchased the property and water rights of Cleo and Sybil Wilding in the Birch Creek area. Elda Wilding filed a protest with the Department of Water Resources regarding the applications of Ted Sorenson to amend the water right permits listed above on August 31, 1990.

Mr. Rigby, Elda Wilding's attorney, has indicated that with the sale of the property Elda Wilding no longer wishes to pursue her protest. Therefore, I intend to issue an order dismissing her from this matter.

If you feel that you need to pursue a protest to Mr. Sorenson's application in order to protect your interest in the former Wilding property you must intervene pursuant to the rules of the Department of Water Resources. IDAPA 37.01.01.350. This letter is notice to you that I will give you until May 21, 1997, to intervene in this proceeding. Because your interest parallels that of Elda Wilding's, I expect to allow you to intervene, absent a strong showing to the contrary on behalf of Mr. Sorenson. Whether you choose to file a motion to intervene or not is entirely your decision.

If you decide to intervene you must attend the informal Prehearing Conference set for Wednesday, May 21, 1997, in Idaho Falls. I have attached notice of this conference. Should you choose not to attend I will assume that you are not interested in pursuing this matter.

**Natural Resources Division - Water Resources Unit**
1301 North Orchard St., Boise, Idaho 83706-2237
Telephone: (208) 327-7920; Legal FAX: (208) 327-7866
Adjudication FAX: (208) 327-5400

RECEIVED
MAY 12 1997
Department of Water Resources
Eastern Region

Please feel free to contact Jerry Rigby or me if you have any questions. You may reach me at the Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83706, phone (208)327-7900, fax (208)327-7866.

Sincerely,

Peter R. Anderson
Deputy Attorney General

PRA/dde
Encl.
cc: Kent Foster, Blair J. Grover, George Petersen, Breck H. Barton, Jerry R. Rigby, Ronald D. Carlson & Norman C. Young

RECEIVED
MAY 5 - 1997
Department of Water Resources

*Law Offices*

## *RIGBY, THATCHER, ANDRUS*
## *RIGBY, KAM & MOELLER, Chartered*

*Ray W. Rigby*
*Gordon S. Thatcher*
*G. Rich Andrus*
*Jerry R. Rigby*
*Michael S. Kam*
*Gregory W. Moeller*

*P.O. Box 250*
*25 North Second East*
*Rexburg, ID 83440*

*Telephone:*
*Rexburg: (208) 356-3633*
*Idaho Falls:(208) 529-5531*
*Fax: (208) 356-0768*
*E-Mail: Rexlaw@srv.net*

RECEIVED
APR 30 1997
Department of Water Resources
Eastern District Office

April 29, 1997

Peter R. Anderson
Hearing Officer
900 N. Skyline Drive
Idaho Falls, ID 83402

Re: **Notice of Prehearing Conference**
**Regarding Amendment of Water Rights Permit No. 32-07128 and 32-07136/Sorenson**

Dear Mr. Anderson:

Pursuant to our telephone conversation, this letter is to inform you that Cleo and Sybil Wilding, who owned the property and water rights affected by the above described application for amendment have since sold their interest including all water rights to LaVar Newman and Louise Newman of 2941 North 800 East, Monteview, Idaho 83435. Therefore, all future notices of the said application for amendment should be addressed to Mr. Newman. I am by this letter copying Mr. and Mrs. Newman with the Notice of Prehearing Conference sent by your office to me.

Sincerely yours,

Jerry R. Rigby

JRR:rc

Enclosure

cc: Mr. and Mrs. Newman

GEORGE C. PETERSEN, JR.
REED L. MOSS
WM. CHARLES CARR
SCOTT P. ESKELSON
STEPHEN D. HALL

PETERSEN, MOSS, OLSEN, CARR,
ESKELSON & HALL
Attorneys at Law
485 "E" Street
Idaho Falls, Idaho 83402
(208) 523-4650

DENNIS M. OLSEN
(1930-1985)

FAX NO.
(208) 524-3391

April 2, 1997

COPY

Peter R. Anderson
Deputy Attorney General
State of Idaho
Water Resources Unit
1301 North Orchard Street
Boise, Idaho 83706-2237

RE: Pre-hearing Conference in Regard to Birch Creek Ranches' Applications, Ted S. Sorenson's Application for Amendment of Permits, and Various Objections for Transfer of Same.

Dear Mr. Anderson:

Pursuant to your request for available pre-hearing conference dates, I have reviewed my calendar for the months of April through July and have marked out in red X's those dates that the undersigned is not available for a pre-hearing conference.

It would appear at this writing that an appropriate pre-hearing conference will very likely take at least a full day.

If I can be of any further assist, please advise and the writer will respond immediately.

Very truly yours,

PETERSEN, MOSS, OLSEN,
CARR, ESKELSON & HALL

George C. Petersen, Jr.

GCP/jih
Enclosures
cc: Kent W. Foster
Blair J. Grover
Ron Carlson, Eastern Region, IDWR

| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
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MARCH 1997

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MAY 1997

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# April 1997

X = NOT AVAILABLE FOR PRE-HEARING CONFERENCE.

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# May 1997

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# June 1997

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JULY 1997

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JUNE 1997

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AUGUST 1997

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| 31 | | | | | | |

# July 1997

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

FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
GAYLE A. SORENSON, P.A.
DONALD L. HARRIS, P.A.
DALE W. STORER
MARIE T. TYLER
JOHN G. SIMMONS
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
SHAN B. PERRY

U.S. BANK OF IDAHO BUILDING
330 SHOUP AVENUE, THIRD FLOOR
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL HOLDNLAW@SRV.NET

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

April 1, 1997

Peter R. Anderson
Deputy Attorney General
1301 North Orchard Street
Boise, ID 83706-2237

Re: Birch Creek Ranches Application for Transfer of Water Rights and Ted S. Sorenson's Application for Amendment of Permits

Dear Mr. Anderson:

Our only unavailable dates in the near future include the 7th, 8th and 11th of April. Otherwise, we think we could accomodate about any schedule and we would be happy to do the matter by telephone or here in Idaho Falls or wherever you think might be most appropriate.

Very truly yours,

Kent W. Foster

pc. George C. Petersen
Blair J. Grover
Ron Carlson

G:\WPDATA\KWF\6936\ADRN0401.LTR:sjw

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
ALAN G. LANCE

RECEIVED

March 31, 1997

Breck H. Barton
BRECK BARTON & ASSOC., P.A.
P.O. Box 100
Rexburg, Idaho 83440

COPY

Jerry R. Rigby
RIGBY THATCHER ANDRUS RIGBY
KAM & MOELLER, CHARTERED
P.O. Box 250
Rexburg, Idaho 83440-0250

Re: Birch Creek Ranches Application for Transfer of Water Rights and Ted S. Sorenson's Application for Amendment of Permits

Gentlemen:

Pursuant to the March 7, 1997, Order Appointing Hearing Officer, and in order to proceed as expeditiously as possible to resolution of the above-referenced matters, I would like to schedule an initial prehearing conference. Please send me your unavailable dates and suggested meeting places for this conference within the next week. I will send an order for prehearing conference in short order, after receiving your information. I look forward to hearing from you.

Sincerely,

Peter R. Anderson
Deputy Attorney General

PRA/dde
cc: George C. Petersen, Jr.
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