

STATE OF NEVADA
OFFICE OF THE STATE ENGINEER

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BIRCH CREEK ADJUDICATION

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**IN THE MATTER OF THE DETERMINATION
OF THE RELATIVE RIGHTS IN AND TO THE
WATERS OF BIRCH CREEK AND ITS TRIBUTARIES
ELKO COUNTY, NEVADA**

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PRELIMINARY ORDER OF DETERMINATION

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**EDMUND MUTH, ACTING STATE ENGINEER
CARSON CITY, NEVADA**

RESOURCE BOND

STATE ENGINEER

A D J U D I C A T I O N O F
BIRCH CREEK AND ITS TRIBUTARIES
ELKO COUNTY, NEVADA

Presented herewith is the Preliminary Order of Determination defining the rights to the waters of Birch Creek and its tributaries in Elko County, Nevada.

This Preliminary Order is prepared in accordance with NRS 533.000.



EDMOND MUTH
Acting State Engineer

Made, filed and cause to be entered of record in the office of the State Engineer, this 22nd day of May, 1957.

C O N T E N T S

Certification of State Engineer Preliminary Order of Determination

- I. General**
- II. Claimants**
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- V. Irrigation Season**
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CERTIFICATION OF STATE ENGINEER

I, Edmund Muth, Acting State Engineer of the State of Nevada, duly appointed and qualified, having charge of the records and files of the office of the State Engineer, do hereby certify that the following is a full, complete and true copy of the Preliminary Order of Determination in and to the waters of Birch Creek and its tributaries in Elko County, Nevada. This Abstract was prepared and filed in this office on this 22nd day of May, 1957.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Carson City, Nevada, this 22nd day of May, 1957.

Edmund Muth

**EDMUND MUTH
Acting State Engineer**

**IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA**

**IN THE MATTER OF THE DETERMINATION OF THE
RELATIVE RIGHTS IN AND TO THE WATERS OF
BIRCH CREEK AND ITS TRIBUTARIES IN ELKO
COUNTY, NEVADA.**

I. GENERAL

On July 15, 1954 Stephen C. Richards, a water user on Birch Creek submitted a petition to the State Engineer requesting a determination of the relative rights of claimants in and to the waters of said stream system. On May 10, 1955 an investigation was made by D. K. Jewett, Office Engineer, which disclosed that facts and conditions justified the granting of said petition. On July 25, 1955 the State Engineer entered an official order granting said petition and made proper arrangements to proceed with the determination under the provisions of NRS 533.000.

The claimant and appropriator, in conformity with NRS 533.215, waived in writing the provisions of the above-mentioned act with reference to notices and the service and publication thereof.

II. CLAIMANTS

The investigation above referred to disclosed that the flow of water from Birch Creek and its tributaries is being placed to beneficial use by one ranch owned by W. B. Richards Jr., and Sons.

III. DUTY OF WATER

The duty of water herein fixed is 3 acre-feet per acre per annum with a maximum diversion of 2.0 c.f.s. for each 100 acres irrigated. The duty may be changed or altered by the court within a period of three years after entry of the decree, as provided for in NRS 533.210.

Birch Creek, typical of Nevada's mountain streams fed by melting snows, has high spring runoffs which recede during the early summer months. Due to the characteristics of the stream's flow, the claimants named herein, or their successors in interest, shall be allowed to increase the rate of direct flow diversions to the maximum as herein allowed so as to satisfy any immediate needs of the growing crops. They may, at their own option, rotate the allotted water between the various fields having a decreed water right at such times and in such quantities as is necessary to place the water to the greatest beneficial use.

IV. MEASUREMENT OF WATER

All water diverted from Birch Creek and tributaries for irrigation purposes shall be measured at a point where the water enters or becomes adjacent to the land to be irrigated or as near thereto as practical.

VI. IRRIGATION SEASON

Water for irrigation purposes may be diverted from April 15 to August 15 of each year, provided that the total amount diverted during any calendar year shall not exceed the acre-foot duty.

VI. STOCKWATERING AND DOMESTIC

The claimants named herein, or their successors in interest, shall be entitled to a reasonable diversion and use of water for stockwatering and domestic purposes at any time during the year.

VII. CHANGE OF PLACE OF USE

All waters allotted under this order shall be appurtenant to the place or places of use designated herein. Any water user desiring to change the place of use of the waters allotted herein, must make application to the State Engineer for permission to make the change pursuant to law.

VIII. RIGHTS OF APPROPRIATION

The following tabulation lists the rights as determined by this Preliminary Order.

Proof No. 02407

Claimant: W. B. Richards, Jr., & Sons

Source : Birch Creek

Use : Irrigation, Stockwatering and Domestic

Means of Diversion: Rock Dam and Ditches

**Point of Diversion: In the NE¹ SE¹ Section 21, T. 31 N.,
R. 59 E., M.D.B.&M., or at a point
from which the center of said section
21 bears S. 65° 50' E., 2622.0 feet.**

Class of Culture : Grain, Meadow and Alfalfa

RICHARDS RANCH

PRIORITY	CULTURAL ACRES	SUB-DIVISION	SEC-TION	TP. N.	RG. E.	MAX. DIV. C.F.S.	DUTY OF WATER
							ACRE FEET PER ANNUM
1870	14.7	SW $\frac{1}{4}$ SW $\frac{1}{4}$	22	31	59	0.29	44.1
"	3.2	SW $\frac{1}{4}$ SW $\frac{1}{4}$	22	31	59	0.06	9.6
1881	18.0	NE $\frac{1}{4}$ SE $\frac{1}{4}$	21	31	59	0.36	54.0
"	40.0	NW $\frac{1}{4}$ SW $\frac{1}{4}$	27	31	59	0.80	120.0
"	40.0	SW $\frac{1}{4}$ SW $\frac{1}{4}$	27	31	59	0.80	120.0
"	27.8	NW $\frac{1}{4}$ NE $\frac{1}{4}$	27	31	59	0.56	83.4
"	40.0	SW $\frac{1}{4}$ NW $\frac{1}{4}$	27	31	59	0.80	120.0
"	24.6	NE $\frac{1}{4}$ NW $\frac{1}{4}$	27	31	59	0.49	73.8
"	23.5	NW $\frac{1}{4}$ NW $\frac{1}{4}$	27	31	59	0.47	70.5
"	16.3	NW $\frac{1}{4}$ NW $\frac{1}{4}$	27	31	59	0.33	48.9
1882	27.8	SE $\frac{1}{4}$ SE $\frac{1}{4}$	21	31	59	0.56	83.4
"	1.2	SE $\frac{1}{4}$ SE $\frac{1}{4}$	21	31	59	0.02	3.6
"	40.0	SE $\frac{1}{4}$ NE $\frac{1}{4}$	28	31	59	0.80	120.0
"	31.4	NE $\frac{1}{4}$ NE $\frac{1}{4}$	28	31	59	0.63	94.2
"	8.6	NE $\frac{1}{4}$ NE $\frac{1}{4}$	28	31	59	0.17	25.8
1885	6.1	NW $\frac{1}{4}$ SE $\frac{1}{4}$	26	31	59	0.12	18.3
"	2.6	NE $\frac{1}{4}$ SW $\frac{1}{4}$	26	31	59	0.05	7.8
1887	40.0	SE $\frac{1}{4}$ SE $\frac{1}{4}$	26	31	59	0.80	120.0
"	40.0	SW $\frac{1}{4}$ SE $\frac{1}{4}$	26	31	59	0.80	120.0
"	6.1	NE $\frac{1}{4}$ SE $\frac{1}{4}$	26	31	59	0.12	18.3
"	40.0	SW $\frac{1}{4}$ SW $\frac{1}{4}$	26	31	59	0.80	120.0
"	33.7	SE $\frac{1}{4}$ SW $\frac{1}{4}$	26	31	59	0.67	101.1
"	35.3	NW $\frac{1}{4}$ SW $\frac{1}{4}$	26	31	59	0.71	105.9
"	40.0	NE $\frac{1}{4}$ SE $\frac{1}{4}$	27	31	59	0.80	120.0
"	40.0	NW $\frac{1}{4}$ SE $\frac{1}{4}$	27	31	59	0.80	120.0
"	40.0	SW $\frac{1}{4}$ SE $\frac{1}{4}$	27	31	59	0.80	120.0

1887	40.0	SEt SEt	27	31	59	0.80	120.0
"	40.0	NEt SWt	27	31	59	0.80	120.0
"	40.0	SEt SWt	27	31	59	0.80	120.0
"	40.0	SWt NEt	27	31	59	0.80	120.0
"	40.0	SEt NWt	27	31	59	0.80	120.0
"	40.0	NEt NEt	34	31	59	0.80	120.0
"	40.0	NWt NEt	34	31	59	0.80	120.0
"	40.0	NEt NWt	34	31	59	0.80	120.0
"	40.0	NEt NEt	35	31	59	0.80	120.0
"	40.0	NWt NEt	35	31	59	0.80	120.0
"	40.0	SWt NEt	35	31	59	0.80	120.0
"	40.0	SEt NEt	35	31	59	0.80	120.0
"	40.0	NEt NWt	35	31	59	0.80	120.0
"	40.0	NWt NWt	35	31	59	0.80	120.0
"	40.0	SWt NWt	35	31	59	0.80	120.0
"	40.0	SEt NWt	35	31	59	0.80	120.0
1889	7.1	NEt NEt	27	31	59	0.14	21.3
911	40.0	NWt NWt	34	31	59	0.80	120.0
1916	5.6	NWt NEt	28	31	59	0.11	16.8
TOTALS	1373.6					27.46	4120.8