

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Eugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
David B. Lincoln
Gary T. Dance
Larry C. Hunter
Randall A. Pererman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. Burns

Michael E. Thomas
Patricia M. Olsson
Christine E. Nicholas
Bradley J. Williams
Lee Radford
Michael O. Roe
Nancy J. Garrett
David S. Jensen
James L. Martin
C. Clayton Gill
Michael W. McGreaham
David P. Gardner
Tara Martens
Mark C. Peterson
Julian E. Gabiola
Kimberly D. Evans Ross
Jason G. Murray

Jon A. Stenquist
Tyler J. Anderson
Paul D. McFarlane
Tyler J. Henderson
C. Edward Carther III
Michelle C. Michaud
Andrew J. Waldera
Dylan B. Lawrence
Benjamin C. Ritchie
Rebecca A. Rainey
Matthew J. McGee

Robert E. Bakes, *of counsel*

Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

RECEIVED
JUN 15 2009
DEPARTMENT OF
WATER RESOURCES

June 10, 2009

Boise
Idaho Falls
Pocatello
Twin Falls

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

Dana L. Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin St.
Boise, ID 83702-5509

Re: Tree Top Ranches, LP
MTBR&F File No. 22567.0000

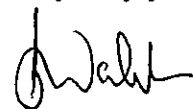
Dear Ms. Hofstetter:

I am enclosing a Standard Form 5 ("SF5") for each of SRBA Subcase Nos. 63-4641A and 63-4641B. You already have the SF5 for water right no. 63-4534B. Please review the documents, and if they are acceptable, please sign on the indicated signature lines, initial the revised recommendations and return the originals to my office for filing with the Court.

Given that water right no. 63-21530 has now been moved over to the Andrews Ditch Co.-related subcases (due to the fact that water right no. 63-21530 is "stacked" with/overlaps with acres irrigated by some former Andrews Ditch Co. water rights), execution of these SF5s will obviate the need for the trial currently scheduled for July 9 and 10, 2009. As we have discussed, both Tree Top and your client would like to avoid the need for a trial in July, or for depositions in the meantime.

If you have any questions, please contact me at 385-5418.

Very truly yours,



Andrew J. Waldera

AJW/dll

Enclosures

cc: Bill Mulder
Andrea Courtney
Ray Williams, Paralegal
Jan Shurte

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	Subcase No. 63-4641A
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

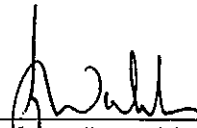
The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/OBJECTOR:

Tree Top Ranches, LP

RESPONDENT:

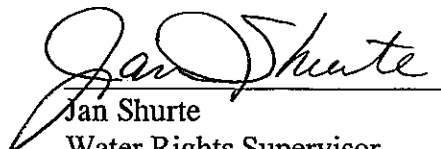
Greg Obendorf



Andrew J. Waldera 6/10/09
Attorney for Claimant/Objector Date

Dana L. Hofstetter Date
Attorney for Respondent

IDWR Concurrence:

 6/3/09
Jan Shurte Date
Water Rights Supervisor

 6/2/09
Andrea L. Courtney Date
Deputy Attorney General
Attorney for IDWR

SF5 Right No. 63-4641A

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-4641A

NAME AND ADDRESS: TREE TOP RANCHES LP
914 HOUSTON RD
BOISE ID 83706

SOURCE: SAND HOLLOW CREEK
UNNAMED DRAIN

TRIBUTARY: SNAKE RIVER
TRIBUTARY: SAND HOLLOW CREEK

QUANTITY: 1.620 CFS ~~1.08 CFS~~

PRIORITY DATE: 03/01/1935

POINT OF DIVERSION:

T05N R05W S14 SWSW Within CANYON County

T05N R05W S15 SWSE Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	<u>1.620 CFS</u> 1.08 CFS

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S15	SWSB	20.50	T05N R05W S15	SESE	32.50
T05N R05W S22	NENE	0.80	T05N R05W S22	NWNE	0.20

54 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At this time, this water right is within State Water District No. 63, Boise River.

The following rights are also diverted through point of diversion in the SWSE S15 described above: 63-4641B, 63-7921.

Source diverted in the SWSE S15 is also known as Sand Hollow Creek Drain and Cole Slough Drain.

Right No. 63-4641B is also diverted through point of diversion in the SWSW S14 described above.

SF5 Right No. 63-4641A

CERTIFICATE OF MAILING

I certify that on _____, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P. O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

2. Copies to:

GREG OBENDORF
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702

TREE TOP RANCHES, LP
Represented by:
SCOTT L. CAMPBELL
ANDREW J. WALDERA
101 S. CAPITOL BLVD., 10th FLOOR
P.O. BOX 829
BOISE, ID 83701-0829

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	Subcase No. 63-4641B
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

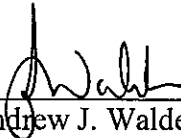
The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/OBJECTOR:

Tree Top Ranches, LP

RESPONDENT:

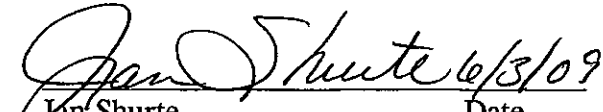
Greg Obendorf



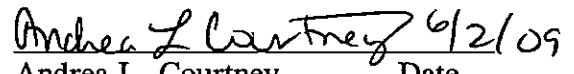
Andrew J. Waldera 6/10/09
Attorney for Claimant/Objector Date

Dana L. Hofstetter Date
Attorney for Respondent

IDWR Concurrence:


Jan Shurte
Water Rights Supervisor

Date


Andrea L. Courtney
Deputy Attorney General
Attorney for IDWR

Date

SF5 Right No. 63-4641B

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-4641B

NAME AND ADDRESS: TREE TOP RANCHES LP
914 HOUSTON RD
BOISE ID 83706

SOURCE: SAND HOLLOW CREEK
UNNAMED DRAIN

TRIBUTARY: SNAKE RIVER
TRIBUTARY: SAND HOLLOW CREEK

QUANTITY: 0.060 CFS ~~0-05-CFS~~

PRIORITY DATE: 03/01/1935

POINT OF DIVERSION:

T05N R05W S14 SWSW Within CANYON County

T05N R05W S15 SWSE Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

0.060 CFS ~~0-05-CFS~~

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S15 SWSE 2.30

2.3 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At this time, this water right is within State Water District No. 63, Boise River.

The following rights are also diverted through point of diversion in the SWSE S15 described above: 63-4641A, 63-7921.

Right No. 63-4641A is also diverted through point of diversion in the SWSW S14 described above.

Source diverted in the SWSE S15 is also known as Sand Hollow Creek Drain and Cole Slough Drain.

SF5 Right No. 63-4641B

CERTIFICATE OF MAILING

I certify that on _____, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P. O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

2. Copies to:

GREG OBENDORF
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702

TREE TOP RANCHES, LP
Represented by:
SCOTT L. CAMPBELL
ANDREW J. WALDERA
101 S. CAPITOL BLVD., 10th FLOOR
P.O. BOX 829
BOISE, ID 83701-0829

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney