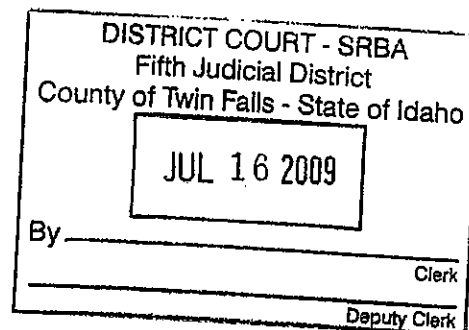


RECEIVED

JUL 17 2009

DEPARTMENT OF  
WATER RESOURCES



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 ) SPECIAL MASTER'S REPORT  
Case No. 39576 )  
 ) FINDINGS OF FACT AND  
 ) CONCLUSIONS OF LAW  
 )  
 ) FOR WATER RIGHTS 63-04534B,  
 ) 63-04641A, and 63-04641B

I. FINDINGS OF FACT

Notices of claim were filed for the above-captioned water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of these water rights.

On June 19, 2007, Tree Top Ranches, LP, through its attorney Scott Campbell, filed objections to the *Director's Report*. Greg Obendorf, through his attorney Dana Hofstetter, filed responses to the objections. On June 11, 2009, the parties filed a *Standard Form 5 – Stipulated Elements of a Water Right* in each of the subcases, which resolved the objections. The Idaho Department of Water Resources concurred with the stipulations.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Forms 5*, IT IS RECOMMENDED that water rights 63-04534B, 63-04641A, and 63-04641B be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

Dated

*July 16, 2009*

*Theodore R. Booth*

Theodore R. Booth  
Special Master  
Snake River Basin Adjudication

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

DISTRICT COURT - SRBA  
Fifth Judicial District  
County of Twin Falls - State of Idaho

In Re SRBA )  
Case No. 39576 )  
\_\_\_\_\_ )

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR

Water Right 63-04534B

JUL 16 2009

By \_\_\_\_\_ Clerk

Deputy Clerk

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

SOURCE: SAND HOLLOW CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 1.60 CFS

PRIORITY DATE: 03/01/1935

POINT OF DIVERSION: T05N R05W S23 NWN Within Canyon County

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|----------------------------|----------------|----------------|----------|
|                            | Irrigation     | 03-01 TO 11-15 | 1.60 CFS |

| PLACE OF USE: | Irrigation              | Within Canyon County |
|---------------|-------------------------|----------------------|
|               | T05N R05W S15 SWSW 22.0 | SESW 35.0            |
|               | S16 SESE 23.0           |                      |
|               | 80.0 Acres Total        |                      |

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

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Nelissen  
Presiding Judge of the  
Snake River Judicial District  
**RECOMMENDATION**  
JUL 16 2009  
*Red B. Booth*  
SPECIAL MASTER

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

|                                       |       |
|---------------------------------------|-------|
| DISTRICT COURT - SRBA                 |       |
| Fifth Judicial District               |       |
| County of Twin Falls - State of Idaho |       |
| JUL 16 2009                           |       |
| By _____                              | Clerk |
| Deputy Clerk                          |       |

In Re SRBA )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 63-04641A

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

SOURCE: SAND HOLLOW CREEK TRIBUTARY: SNAKE RIVER  
UNNAMED DRAIN TRIBUTARY: SAND HOLLOW CREEK

QUANTITY: 1.62 CFS

PRIORITY DATE: 03/01/1935

POINT OF DIVERSION: T05N R05W S14 SWS Within Canyon County  
S15 SWSE

|                |                |                |          |
|----------------|----------------|----------------|----------|
| PURPOSE AND    |                |                |          |
| PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|                | Irrigation     | 03-01 TO 11-15 | 1.62 CFS |

|               |                  |           |                      |
|---------------|------------------|-----------|----------------------|
| PLACE OF USE: | Irrigation       |           | Within Canyon County |
|               | T05N R05W S15    | SWSE 20.5 | SESE 32.5            |
|               | S22              | NENE 0.8  | NWNE 0.2             |
|               | 54.0 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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson  
Presiding Judge  
Snake River Basin Adjudication

|                         |
|-------------------------|
| RECOMMENDATION          |
| JUL 16 2009             |
| <i>John M. Melanson</i> |
| SPECIAL MASTER          |

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

|                                       |              |
|---------------------------------------|--------------|
| DISTRICT COURT - SRBA                 |              |
| Fifth Judicial District               |              |
| County of Twin Falls - State of Idaho |              |
| JUL 16 2009                           |              |
| By _____                              | Clerk        |
| _____                                 | Deputy Clerk |

In Re SRBA )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 63-04641B

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

SOURCE: SAND HOLLOW CREEK TRIBUTARY: SNAKE RIVER  
UNNAMED DRAIN TRIBUTARY: SAND HOLLOW CREEK

QUANTITY: 0.06 CFS

PRIORITY DATE: 03/01/1935

POINT OF DIVERSION: T05N R05W S14 SWSW Within Canyon County  
S15 SWSE

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|----------------------------|----------------|----------------|----------|
|                            | Irrigation     | 03-01 TO 11-15 | 0.06 CFS |

PLACE OF USE: Irrigation Within Canyon County  
T05N R05W S15 SWSE 2.3  
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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

|                                                                              |
|------------------------------------------------------------------------------|
| John M. Melanson<br>Presiding Judge of the<br>Snake River Basin Adjudication |
| RECOMMENDATION                                                               |
| JUL 16 2009                                                                  |
| <i>Lee R. Booth</i><br>SPECIAL MASTER                                        |

|                                                                                           |       |
|-------------------------------------------------------------------------------------------|-------|
| DISTRICT COURT - SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |       |
| JUL 16 2009                                                                               |       |
| By _____                                                                                  | Clerk |
| Deputy Clerk                                                                              |       |

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

In Re SRBA )

Case No. 39576 )  
\_\_\_\_\_) )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

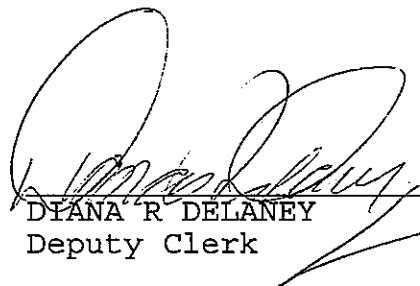
Water Right(s) : 63-04534B  
63-04641A 63-04641B

On July 16, 2009, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED July 16, 2009.

  
\_\_\_\_\_  
DIANA R. DELANEY  
Deputy Clerk

|                                       |       |
|---------------------------------------|-------|
| DISTRICT COURT - SRBA                 |       |
| Fifth Judicial District               |       |
| County of Twin Falls - State of Idaho |       |
| JUL 16 2009                           |       |
| By _____                              | Clerk |
| Deputy Clerk                          |       |

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

In Re SRBA )  
Case No. 39576 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 63-04534B  
63-04641A 63-04641B

CERTIFICATE OF MAILING

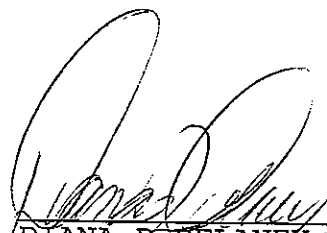
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on July 16, 2009, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR  
PO BOX 83720  
BOISE, ID 83720-0098

GREG OBENDORF  
Represented by:  
DANA L. HOFSTETTER  
608 WEST FRANKLIN STREET  
BOISE, ID 83702  
Phone: 208-424-7800

TREE TOP RANCHES LP  
Represented by:  
SCOTT L CAMPBELL  
101 S CAPITOL BLVD 10TH FLOOR  
PO BOX 829  
BOISE, ID 83701-0829  
Phone: 208-345-2000

CERTIFICATE OF MAILING

  
DIANA R DELANEY  
Deputy Clerk

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07/16/09