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DEPARTMENT OF
WATER RESOURCES

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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

Subcase Nos. 63-00127B 63-00128B
63-00129B 63-00130B
63-00131B 63-00178B

**CLAIMANT'S SECOND SET OF DISCOVERY
REQUESTS TO GREG OBENDORF**

COMES NOW Claimant Tree Top Ranches, L.P. ("Claimant" or "Tree Top"), by and through its undersigned counsel of record and pursuant to Idaho Rules of Civil Procedure 26, 33, 34, and 36, and hereby requests that Greg Obendorf respond to the following requests for admission, interrogatories, and requests for production under oath and no later than thirty (30) days from the date of receipt thereof as provided in said Rules.

I. INTRODUCTION

In responding to these discovery requests, you are requested to furnish all information available to you, or subject to your reasonable inquiry, including information in the possession of your attorneys, investigators, employees, agents, representatives, guardians, consultants, expert witnesses and/or any other person or persons acting on your behalf, and not merely such information as is known to you by your own personal knowledge.

In responding to these discovery requests, you must make a diligent search of your records and all other papers and materials that are in your possession or available to you or your representatives. If any item has subparts, answer each part separately and in full. If you cannot respond to any of the following discovery requests in full after exercising due diligence to secure the information necessary to do so, please so state and answer or respond to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

If you object to any discovery requests on the ground that the information sought is privileged and nondiscoverable, please state the basis for your claim of privilege and, in the case of any request for production, “identify” the “documents” and “records” which you object to producing in sufficient detail as to enable the court to rule upon a claim of privilege.

These discovery requests are deemed to be continuing. If, after responding to these discovery requests, you acquire any further information responsive to them, you are hereby requested, pursuant to Rule 26(e), to file and serve supplemental answers or responses containing such further information. If you fail to answer one or more of these interrogatories or if your answer to one or more of these interrogatories is evasive or incomplete, Claimant may move for

an order compelling you to fully answer the interrogatories and to pay the reasonable expenses, including attorney fees, incurred by it in obtaining the order.

If you fail to produce “documents” and “records” requested herein or fail to answer any interrogatory on the ground that the necessary information, “records” or “documents” are not within your care, custody, possession, or control, please state what efforts you have made to obtain such information, “documents,” or “records.”

If you fail to answer or respond to any of these discovery requests in full or fail to supplement your answers or responses as requested, Claimant may move the Court for an order precluding you from introducing into evidence, or otherwise using either at trial or at any hearing, any testimony, witness, exhibit, “document,” “record,” publication, or other item or information not timely disclosed in your response to these interrogatories and requests for production.

II. DEFINITIONS

When asked to “identify” a person or entity or when asked for the “identity” of a person or entity, please state:

- (a) The name of the person or entity;
- (b) The present or last known address and telephone number of the person or entity;
- (c) The present or last known occupation, business, and employer of the person or entity; and
- (d) The present or last known address and telephone number of the employer of the person or entity.

When asked to “identify” a record or document or when asked for the “identity” of a “record” or “document,” please state:

- (a) The nature or type of “record” or “document” (*e.g.*, letter, photograph, tape recording, radiology report, etc.);
- (b) The subject matter of the “record” or “document” and/or a general description of its contents;
- (c) The “identity” of the person who authored or created the “record” or “document”;
- (d) The date of the document or, if it bears no date, the date on which it was prepared or created; and
- (e) The physical location of the original and any copies of the “document” or “record” of which you are aware and the “identity” of the present custodian of the “record” or “document.”

In responding to these requests for admission, interrogatories, and requests for production, the following definitions shall apply:

The terms “document(s)” and/or “record(s)” mean any tangible thing upon which has been placed handwriting, e-mail transmission, typewriting, printing, photocopying, photographing, digital or computerized data, or any other form of recording, communication or representation, including but not limited to letters, words, pictures, sounds, magnetic impulses, symbols, numbers or any combination thereof, whether or not visible to the unassisted human eye. This definition shall include, but is not limited to, any and all originals, copies or drafts of any and all of the following: records, notes, summaries, schedules, contracts, agreements, drawings, blueprints, sketches, invoices, orders, acknowledgments, diaries, reports, findings,

forecasts, tests, appraisals, reports, memoranda, medical records, telephone recordings, telephone logs, telephone lists, diaries, calendars, planners, daytimers, correspondence and letters, e-mail, telegrams, telexes, facsimiles and faxes, cables, tapes, tape recordings, statements, receipts, invoices, check registers, transcripts, recordings, photographs, witness statements, pictures, films, videotapes, computer programs, computer databases, models, surveys, things and materials of any nature whatsoever. Any "document" which contains any comment, notation, addition, insertion or marking of any kind which is not part of another document is to be considered as a separate "document."

III. REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the Andrews Ditch is an earthen ditch that experiences conveyance (or transmission) losses.

REQUEST FOR ADMISSION NO. 2: Please admit that the field irrigation requirement of the portion of Tree Top's Parma Ranch irrigated by water right nos. 63-04641A and 63-04641B exceeds 0.02 cfs (or one miner's inch) of water per acre.

REQUEST FOR ADMISSION NO. 3: Please admit that the Andrews Ditch Company is not currently a valid legal entity (*i.e.*, that the "company" is not a formally organized corporation recognized by the State of Idaho).

REQUEST FOR ADMISSION NO. 4: Please admit that the Andrews Ditch Company has never existed as a valid legal entity.

REQUEST FOR ADMISSION NO. 5: Please admit that in June 2006 representatives of Tree Top, Tina Iest, and the Idaho Department of Water Resources met, discussed, and agreed that the Andrews Ditch Company did not exist as a valid legal entity.

REQUEST FOR ADMISSION NO. 6: Please admit that the Idaho Department of Water Resources determined that the field irrigation requirement of lands irrigated by the Haas Ditch Company exceeded 0.06 cfs (or three miner's inches) of water per acre.

**IV.
INTERROGATORIES**

INTERROGATORY NO. 18: Please identify and explain, in full and complete detail, each and every fact, document, witness, communication, and other evidence which relates to or forms the basis of your objection to the Place of Use element of water right nos. 63-00127B, 63-00128B, 63-00129B, 63-00130B, 63-00131B, and 63-00178B.

INTERROGATORY NO. 19: Please explain, in full and complete detail, the legal authority which relates to or forms the basis of your objection to the Place of Use element of water right nos. 63-00127B, 63-00128B, 63-00129B, 63-00130B, 63-00131B, and 63-00178B.

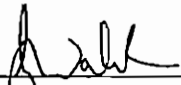
INTERROGATORY NO. 20: If your response to any of the Requests for Admissions propounded herein is anything other than an unqualified admission, please explain in full and complete detail the facts supporting your response.

**V.
REQUESTS FOR PRODUCTION OF DOCUMENTS**

REQUEST FOR PRODUCTION NO. 13: If your response to any of the Requests for Admission propounded herein is anything other than an unqualified admission, please produce any and all documents supporting your response.

DATED this 18th day of December, 2009.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By  _____
Andrew J. Waldera – Of the Firm
Attorneys for Claimant Tree Top Ranches, L.P.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of December, 2009, I caused a true and correct copy of the foregoing CLAIMANT'S SECOND SET OF DISCOVERY REQUESTS TO GREG OBENDORF to be served by the method indicated below, and addressed to the following:

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098
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☐ Hand Delivered
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☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

David W. Gehlert
DEPARTMENT OF JUSTICE
General Litigation Section
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Denver, CO 80294

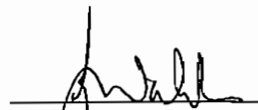
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