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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 No. 63-00178C **CLAIMANT'S FIRST SET OF DISCOVERY REQUESTS TO THE HAUCK FAMILY REVOCABLE TRUST**

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 The Hauck Family Revocable Trust ("Hauck") 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 answer 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 respond to one or more of these discovery requests or if your response to one or more of these discovery requests is evasive or incomplete, Claimant may

move for an order compelling you to fully respond to these discovery requests 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 August 2006 Notice of Claim to a Water Right Acquired Under State Law for water right no. 63-00178C claimed 7.33 cfs of water for the irrigation of 225.1 acres of land situate in Sections 23 and 26 of Township 05 North, Range 05 West.

REQUEST FOR ADMISSION NO. 2: Please admit that 7.33 cfs yields a proportion of 0.03256 cfs (or approximately 1.63 miner's inches) of water per acre for the 225.1 acres claimed Place of Use.

REQUEST FOR ADMISSION NO. 3: Please admit that you objected to the Quantity element of water right no. 63-00178B on the grounds that the recommended quantity for water right should be no more than (or not exceed) 0.02 cfs (or one miner's inch) of water per acre.

IV.
INTERROGATORIES

INTERROGATORY NO. 1: Please identify each and every individual known to you who has any knowledge of, or who claims to have knowledge of, any facts or evidence discoverable in this matter, together with a summary of each person's knowledge.

INTERROGATORY NO. 2: Please identify each and every person you intend to call as a lay witness at the trial of this matter, together with a summary of the substance of each person's expected testimony.

INTERROGATORY NO. 3: Please identify each and every person you expect to call as an expert witness at the trial in this matter, and for each such person, state with particularity:

(a) The qualifications upon which you intend to rely to establish said person as an expert witness;

(b) The subject matter on which said person is expected to testify;

(c) The substance of the facts and opinions to which he or she is expected to testify; and

(d) The other information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure and Rule 705 of the Idaho Rules of Evidence.

INTERROGATORY NO. 4: Please identify each exhibit which you plan to offer into evidence at the trial of this matter and proposed use and relevance of each such exhibit.

INTERROGATORY NO. 5: If you contend that Tree Top, or any individual(s) acting on behalf of Tree Top, has made any admission or statement against Tree Top's interests in this matter, please state the following:

(a) the identity of the individual making the admission and/or statement;

(b) the date, time, and location where the admission and/or statement was made;

(c) the name and address of each individual present at the time the admission and/or statement was made;

(d) whether the admission and/or statement was written or oral; and

(e) if the admission and/or statement was oral, please state the complete content of the admission and/or statement to the best of your knowledge.

INTERROGATORY NO. 6: Please separately identify each document, including without limitation, all e-mails, pictures, plans, drawings, correspondence, notes, and audio or video recordings which in any way relate to this matter.

INTERROGATORY NO. 7: Please identify, in full and complete detail, any diaries, journals, calendars, reports, records, day-timers or any other similar document of which you are aware and which relate in any way to this matter.

INTERROGATORY NO. 8: Please identify each person consulted in responding to these discovery requests and identify the discovery request for which he or she was consulted.

INTERROGATORY NO. 9: In relation to Request for Admission Nos. 1, 2, and 3, please explain in full and complete detail why you believe that you are entitled a quantity of water exceeding 0.02 cfs (or one miner's inch) per acre for the 225.1 acre Place of Use of water right no. 63-00178C when the objection you filed in subcase no. 63-00178B contends that the Quantity element for those water rights should not exceed 0.02 cfs (or one miner's inch) of water per acre.

INTERROGATORY NO. 10: 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 Source element of water right no. 63-00178C.

INTERROGATORY NO. 11: Please explain, in full and complete detail, the legal authority which relates to or forms the basis of your objection to the Source element of water right no. 63-0178C.

INTERROGATORY NO. 12: 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 Quantity element of water right no. 63-00178C.

INTERROGATORY NO. 13: Please explain, in full and complete detail, the legal authority which relates to or forms the basis of your objection to the Quantity element of water right no. 63-00178C.

INTERROGATORY NO. 14: 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 Priority Date element of water right no. 63-00178C.

INTERROGATORY NO. 15: Please explain, in full and complete detail, the legal authority which relates to or forms the basis of your objection to the Priority Date element of water right no. 63-00178C.

INTERROGATORY NO. 16: 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 Point of Diversion element of water right no. 63-00178C.

INTERROGATORY NO. 17: Please explain, in full and complete detail, the legal authority which relates to or forms the basis of your objection to the Point of Diversion element of water right no. 63-00178C.

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 Purpose of Use element of water right no. 63-00178C.

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 Purpose of Use element of water right no. 63-00178C.

INTERROGATORY NO. 20: 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 Period of Year element of water right no. 63-00178C.

INTERROGATORY NO. 21: Please explain, in full and complete detail, the legal authority which relates to or forms the basis of your objection to the Period of Year element of water right no. 63-00178C.

INTERROGATORY NO. 22: 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 no. 63-0178C.

INTERROGATORY NO. 23: 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 no. 63-0178C.

INTERROGATORY NO. 24: If your response to any of the Requests for Admission 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. 1: Please produce copies of any and all documents relied upon in, identified in, or responsive to your answers to each of the above-stated interrogatories.

REQUEST FOR PRODUCTION NO. 2: Please produce copies of all documents and exhibits that you expect to offer as evidence at the trial of this matter.

REQUEST FOR PRODUCTION NO. 3: Please produce copies of any notes, memoranda, letters, or other correspondence between you and Tree Top regarding this matter.

REQUEST FOR PRODUCTION NO. 4: Please produce a copy of any and all documents including, without limitation, all notes, memoranda, drafts, reports, and work papers from or prepared by expert witnesses listed in your answers to the foregoing interrogatories.

REQUEST FOR PRODUCTION NO. 5: Please produce any and all written reports or documents of any kind whatsoever generated, relied upon, reviewed, or possessed by expert witnesses of any type retained by you to renew or analyze this matter and/or render expert testimony.

REQUEST FOR PRODUCTION NO. 6: Please produce the current resume and/or curriculum vitae of each individual whom you may call as an expert witness at the trial of this matter.

REQUEST FOR PRODUCTION NO. 7: Please produce the current resume and/or curriculum vitae of all expert witnesses or consultants with whom you have consulted, either directly or indirectly, in this matter.

REQUEST FOR PRODUCTION NO. 8: Please produce copies of any or all statements previously made by Tree Top or its respective employees, agents, or representatives relating in any way to this matter, including any written statement signed or otherwise adopted or approved by Tree Top or its respective employees, agents, or representatives.

REQUEST FOR PRODUCTION NO. 9: Please produce copies of any statements which your witnesses will use, or you anticipate may be used, to refresh their memory, either for deposition or trial.

REQUEST FOR PRODUCTION NO. 10: Please produce copies of any communications including, without limitation, all meeting minutes and all e-mails, letters or, other correspondence, between you and any other person, which relate in any way to this matter.

REQUEST FOR PRODUCTION NO. 11: 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.

INTERROGATORY NO. 24: If your response to any of the Requests for Admission propounded herein is anything other than an unqualified admission, please explain in full and complete detail the facts supporting your response.

V.
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REQUEST FOR PRODUCTION NO. 1: Please produce copies of any and all documents relied upon in, identified in, or responsive to your answers to each of the above-stated interrogatories.

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REQUEST FOR PRODUCTION NO. 3: Please produce copies of any notes, memoranda, letters, or other correspondence between you and Tree Top regarding this matter.

REQUEST FOR PRODUCTION NO. 4: Please produce a copy of any and all documents including, without limitation, all notes, memoranda, drafts, reports, and work papers from or prepared by expert witnesses listed in your answers to the foregoing interrogatories.

REQUEST FOR PRODUCTION NO. 5: Please produce any and all written reports or documents of any kind whatsoever generated, relied upon, reviewed, or possessed by expert witnesses of any type retained by you to renew or analyze this matter and/or render expert testimony.

REQUEST FOR PRODUCTION NO. 6: Please produce the current resume and/or curriculum vitae of each individual whom you may call as an expert witness at the trial of this matter.

REQUEST FOR PRODUCTION NO. 7: Please produce the current resume and/or curriculum vitae of all expert witnesses or consultants with whom you have consulted, either directly or indirectly, in this matter.

REQUEST FOR PRODUCTION NO. 8: Please produce copies of any or all statements previously made by Tree Top or its respective employees, agents, or representatives relating in any way to this matter, including any written statement signed or otherwise adopted or approved by Tree Top or its respective employees, agents, or representatives.

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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 FIRST SET OF DISCOVERY REQUESTS TO THE HAUCK FAMILY REVOCABLE TRUST** 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
Fax: (208) 287-6700

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Dana L. Hofstetter
HOFSTETTER LAW OFFICE, LLC
608 W. Franklin St.
Boise, ID 83702

( ) U.S. Mail, Postage Prepaid
(X) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Andrew J. Waldera