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 Greg and Ann Obendorf and
 The Hauck Family Revocable Trust

**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 Nos. 63-127A; 63-128A; 63-129A;
	)	63-130A; 63-131A; 63-127B; 63-128B;
Case 39576	)	63-129B; 63-130B; 63-131B; 63-178B;
	)	63-178C; AND 63-21530
	)	
	)	RESPONSE IN OPPOSITION TO
	)	MOTION TO VACATE AND CONTINUE
	)	TRIAL SETTING AND PRETRIAL
	)	DEADLINES

COME NOW the Estate of Tina Iest, The Tina Iest Family L.L.L.P., Greg Obendorf, and
 The Hauck Family Revocable Trust, by and through their counsel of record, Dana L. Hofstetter
 of Hofstetter Law Office, LLC, and hereby respond in opposition to the Motion to Vacate and
 RESPONSE IN OPPOSITION TO MOTION TO VACATE AND CONTINUE TRIAL
 SETTING AND PRETRIAL DEADLINES -- 1

Continue Trial Setting and Pretrial Deadlines (“Motion”) filed by Tree Top Ranches, L.P. in these subcases. This Response is supported by the Memorandum set forth below, the Affidavit of Dana L. Hofstetter filed contemporaneously herewith and by the record.

MEMORANDUM IN OPPOSITION

I. INTRODUCTION.

Movant filed this Motion on or about December 29, 2009. By the time it filed, the deadlines for joining parties, amending pleadings, disclosing witnesses and serving interrogatories and requests for production had already passed. Indeed, the scheduled summary judgment and trial dates in these subcases were rapidly approaching, on January 27, 2010 and March 29, 2010 respectively.

Movant claims it is necessary to continue the trial setting and the pretrial deadlines in these cases, first, because they require data/analysis that can only be obtained in the irrigation season and, second, because full and efficient resolution of the Andrews Ditch-conveyed water rights requires inclusion of late claim 63-00160 in the subcases at bar.

Movant cannot claim the requisite “good cause” for filing this Motion, though, when IDWR and SRBA litigants routinely rely upon analyses that do not require irrigation season measurements or visual inspections and, where full and efficient resolution of all of the Andrews Ditch-based subcases could just be just as easily achieved by letting the straggling case, 63-160, be the tail and not the dog.

II. BACKGROUND.

As the Court is aware, Movant and Iest, Obendorf and Hauck share an interest in the waters carried by a conveyance called the Andrews Ditch. They are involved in these subcases, which relate to that ditch. The “A” subcases in that litigation represent the original claims of the Andrews Ditch Company; the “B” subcases represent Movant’s individually-based claims; and the “C” subcase represents an Iest family-based claim. It is clear from the SRBA claim record that Movant challenged the historical Andrews Ditch Company basis of apportioning water rights from the Andrews Ditch. In that regard, Movant has made increasingly strident efforts in those subcases to bootstrap the “company’s” apparent recent lack of corporate formality into supporting Movant’s separate claims to the waters of the Andrews Ditch.

But, about a year ago, other claimants came forward (Obendorf and the Hauck Family Revocable Trust) to assert their interests in the waters of the Andrews Ditch--alternatively, either as interest-holders in the Andrews Ditch Company or proportionally based on the *Stewart Decree* places of use as recommended by IDWR. In July 2009, the Court made a Scheduling Order that included pretrial deadlines and a trial setting. The parties have been prosecuting their positions in this litigation since then. Depositions in advance of the Summary Judgment deadline have been set, and post-deadline deposition procedures have been agreed upon. We are 10 weeks from trial.

III. Good Cause Does Not Exist To Vacate And Continue The Trial Setting And Pretrial

Deadlines.

First, Movant's expert notwithstanding, IDWR and SRBA litigants routinely rely upon modeled analysis for determining field irrigation (duty of water) and conveyance loss requirements, without the need for irrigation season-measurements. *Affidavit of Dana L. Hofstetter*. While actual measurements may be another way of determining conveyance loss and/or duty of water, it is not the typical method used by IDWR or SRBA litigants and, therefore, is not necessary. *Id.* Similarly, despite Movant's claim to the contrary, irrigation practices do not need to be visually or seasonally inspected as a prerequisite to effective proof of the duty. *Id.*

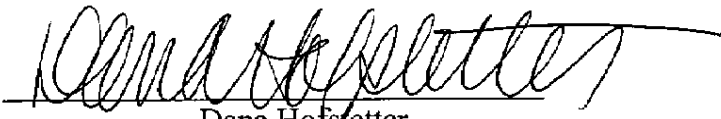
And, finally, the Court could more efficiently reach its decisions in the subcases now before it, and let the principles of those rulings guide the parties once IDWR issues its recommendations in 63-00160, than by delaying these subcases to wait for the straggler.

There simply is no good cause to grant Movant's Motion.

IV. CONCLUSION.

For the foregoing reasons, Iest, Hauck and Obendorf respectfully request that the Special Master deny the Motion to Vacate and Continue Trial Setting and Pretrial Deadlines in the above-listed subcases.

DATED this 13th day of January, 2010.


Dana Hofstetter

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of January, 2010, I caused to be served a true copy of the foregoing by the method indicated below, and addressed to each of the following:

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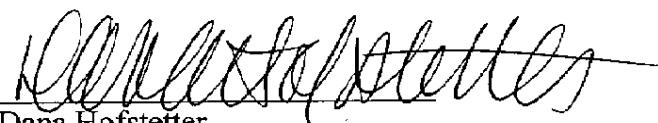
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	)	
	)	AFFIDAVIT OF DANA L. HOFSTETTER
_____	)	
STATE OF IDAHO	)	
	) ss.	
COUNTY OF ADA	)	

Dana L. Hofstetter, being first being duly sworn upon oath, deposes and says:

(1) I am Dana L. Hofstetter, counsel of record in this matter for Estate of Tina Iest, Tina Iest Family L.L.L.P., The Hauck Family Revocable Trust, and Greg Obendorf, and I have personal knowledge of the following.

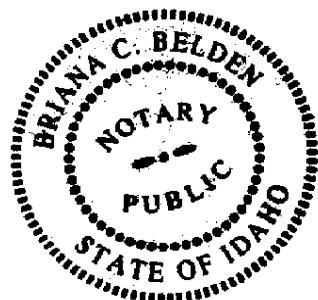
(2) I have represented parties in the SRBA for almost 20 years, in numerous Basins throughout Idaho. Further, for about as long, I have represented parties in administrative proceedings before IDWR. Based on my experience, models such as the Hubble analysis or the Worstell method are used by IDWR to determine field irrigation requirements (duty of water) or conveyance loss in the SRBA and in administrative proceedings. Specific measurements during the irrigation season or observations during active irrigation are not typically used in such analyses. Publicly available soil map information, together with information provided by the parties about fields, crops and irrigation practices usually are sufficient for such modeled duty of water and conveyance loss determinations.

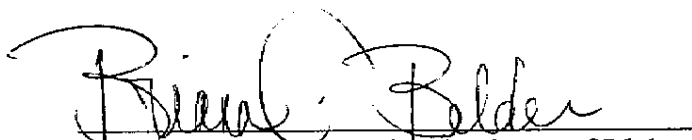
FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 13th day of January, 2010.


Dana L. Hofstetter

SUBSCRIBED AND SWORN to before me this 13th day of January, 2010.




Notary Public in and for the State of Idaho
Residing at: Meridian
My Commission Expires: 01-16-2013

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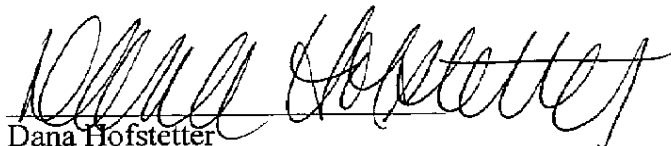
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