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JAN 19 2012
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
JAN 18 2012
By _____ Clark 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	) Subcase: 63-33590
	)
Case No. 39576	) ORDER GRANTING LATE NOTICE OF
	) CLAIM
	)
	) ORDER FOR EXPEDITED LATE
	) CLAIM DIRECTOR'S REPORT AND
	) SETTING FORTH PROCEDURES AND
	) DEADLINES FOR EXPEDITED
	) PROCESS
	)

On October 31, 2011, Tree Top Ranches, L.P., by and through counsel Andrew J. Waldera, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. A hearing on the *Motion* was held on January 17, 2012. No party appeared in opposition to the *Motion*. At the hearing it was represented to the Court that the late claims were filed as a result of settlement negotiations undertaken in other subcases presently pending unresolved in the SRBA ("related SRBA subcases").¹ It was also represented to the Court by the Idaho Department of Water Resources that, if granted, the late claim would be a candidate for an expedited late claim director's report, given the current stage of the proceedings in the related SRBA subcases.²

¹ Specifically, subcase numbers 63-00127A, 63-00127B, 63-00128A, 63-00128B, 63-00129A, 63-00129B, 63-00130A, 63-00130B, 63-00131A, 63-00131B, 63-00160, 63-00178B, 63-00178C, 63-03201, 63-09744 and 63-21530.

² The aforementioned settlement resulted in the filing of several late claims in the SRBA. At the hearing the parties were unsure if the other late claims that resulted from the settlement were set to be reported by the Director on an expedited basis. However the parties resolved that if the other late claim were set to be reported on an expedited basis, then this late claim should be as well. The Court has confirmed that related late claims for water right numbers 63-33570 and 63-33571, filed by Greg and Ann Obendorf, have been set to be reported on an expedited basis. Therefore the above-mentioned late claim will be set for an expedited director's report consistent with water right claims 63-33570 and 63-33571.

Accordingly, following a review of the file and after hearing the comments made in open court, the Court makes the following findings:

1. The *Motion* complied with all procedural requirements under **SRBA Administrative Order 1**, and no objections were made to the Late Notice of Claim. Good cause exists for granting the instant *Motion*.
2. The next regularly scheduled *Late and Miscellaneous Claims Director's Report* will not be issued in time to accommodate the proceedings presently set for the related SRBA subcases.
3. In furtherance of the winding down process for the SRBA it is imperative that matters be timely processed. Therefore in limited circumstances such as this it is preferable to have a *Late Claims Director's Report* for certain late claims individually prepared and filed in advance of the next regularly scheduled *Late and Miscellaneous Claims Director's Report*. This is on a case-by-case basis and provided the Idaho Department of Water Resources (IDWR) is in a position to prepare the recommendation in advance and does not oppose preparing and filing a *Director's Report* in advance.
4. In this case IDWR does not oppose filing a *Director's Report* for the late claim.
5. This Court therefore finds that under the circumstances the issuance of an expedited *Late Claim Director's Report* for the above-captioned claim is appropriate.

THEREFORE, IT IS HEREBY ORDERED that the *Motion to File a Late Notice of Claim* for the above-captioned water right claim is **granted**. The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action.

IT IS HEREBY FURTHER ORDERED that the Director issue an expedited *Late Claim Director's Report* for the above-captioned water right claim, and that the parties abide by the following schedule with respect to the late claims:

1. Deadline for filing *Late Claim Director's Report*: The Director shall file an original of the *Late Claim Director's Report* for the above-captioned water right claim with this Court on or before **April 30, 2012** and shall distribute for display and review at least one (1) copy of the *Late Claim Director's Report* to the office of the clerk of the district court for each

county in which any part of the water system is located, together with a copy of this **Order**. The Director shall also serve on each claimant or the claimant's attorney a notice of filing of the *Late Claim Director's Report*. Last, the Director shall file with the Court an affidavit demonstrating compliance with the notice requirements of Idaho Code § 42-1411(6).

2. Deadline for the filing of objections to *Late Claim Director's Report*: Any party wishing to file an objection to the *Late Claim Director's Report* for the above-captioned water right claim may do so within 21 days following the notice of filing of the *Late Claim Director's Reports* in the Docket Sheet, or on or before **May 29, 2012**.

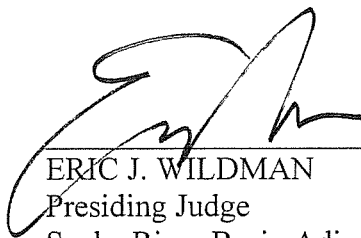
3. Deadline for the filing of responses to objections to *Late Claim Director's Report*: Responses to objections to the *Late Claim Director's Report* must be filed within 14 days following the close of the objection period, or on or before **June 12, 2012**.

4. Hearing on uncontested claim: In the event no objections are filed, the Court will hold a hearing on the entry of the ***Partial Decrees*** as required by I.C. § 42- 1412(7). **NOTICE IS HEREBY GIVEN** that the hearing will be held on **Tuesday, June 19, 2012, at 1:30 p.m. (Mountain Time)**, at the **Snake River Basin Adjudication District Court, 253 - 3rd Avenue North, Twin Falls, Idaho**. Parties may participate by telephone by dialing the number 1-215-446-0193 and when prompted entering code 406128#.

5. Publication of Notice: The clerk of the court is instructed to publish a notice of the issuance of this order, together with the applicable objection, response and hearing date, on the February 2012 docket sheet.

IT IS SO ORDERED.

Dated May 18, 2012.


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING LATE NOTICE OF CLAIM / ORDER FOR EXPEDITED LATE CLAIM DIRECTOR'S REPORT AND DEADLINES was mailed on January 18, 2012, with sufficient first-class postage to the following:

TREE TOP RANCHES LP

Represented by:

ANDREW J WALDERA

101 S CAPITOL BLVD 10TH FLOOR

PO BOX 829

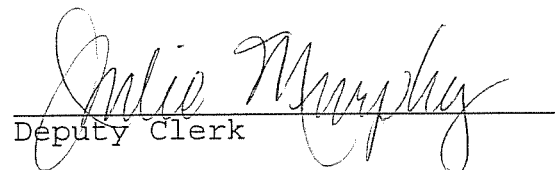
BOISE, ID 83701-0829

Phone: 208-345-2000

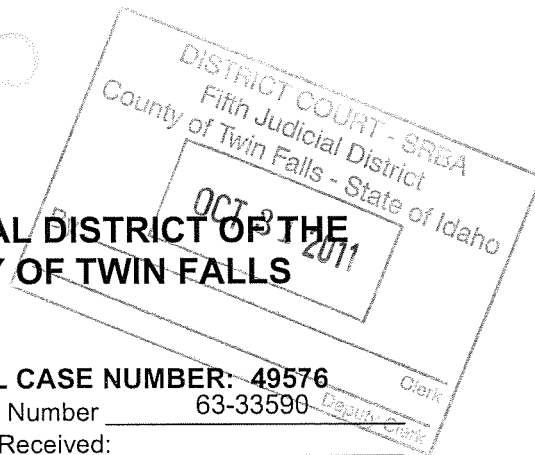
DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the printed text "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 THE GENERAL ADJUDICATION OF
RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 49576

Ident. Number 63-33590

Date Received: _____

Receipt No: 0094565

Received By: _____

**NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant (s) Tree Top Ranches, L.P. Phone (208) 377-0998

Mailing Address P.O. Box 8126 Boise ID ZIP 83707
Street or Box City State

2. Date of Priority (Only one (1) per claim) January 19, 1906
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (✓) (a) Boise river
which is tributary to (b) Snake River

4. a. Location of Point of Diversion is: Township 5N, Range 5W, Section 25,
SW, 1/4 of SE, 1/4 Govt. Lot 2, BM., County of Canyon

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS Coordinates _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. _____

Headgate, ditches, pumps, furrows, and pivot. _____

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For irrigation purposes from 3/1 to 11/15 amount 6.78 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 6.78 (cfs) and/or (b) (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) n/a

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	5W	22			36	0.7				21	23			9.3	26	34	22	27	199.0
5N	5W	23										18							18.0
5N	5W	27	0.3	7			6												13.3

Parcel (PIN) no(s).

Total number of acres irrigated 230.30

10. In which county (ies) are lands listed above as place of use located? Canyon

11. Do you own the property listed above as place of use? Yes (✓) No ()

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

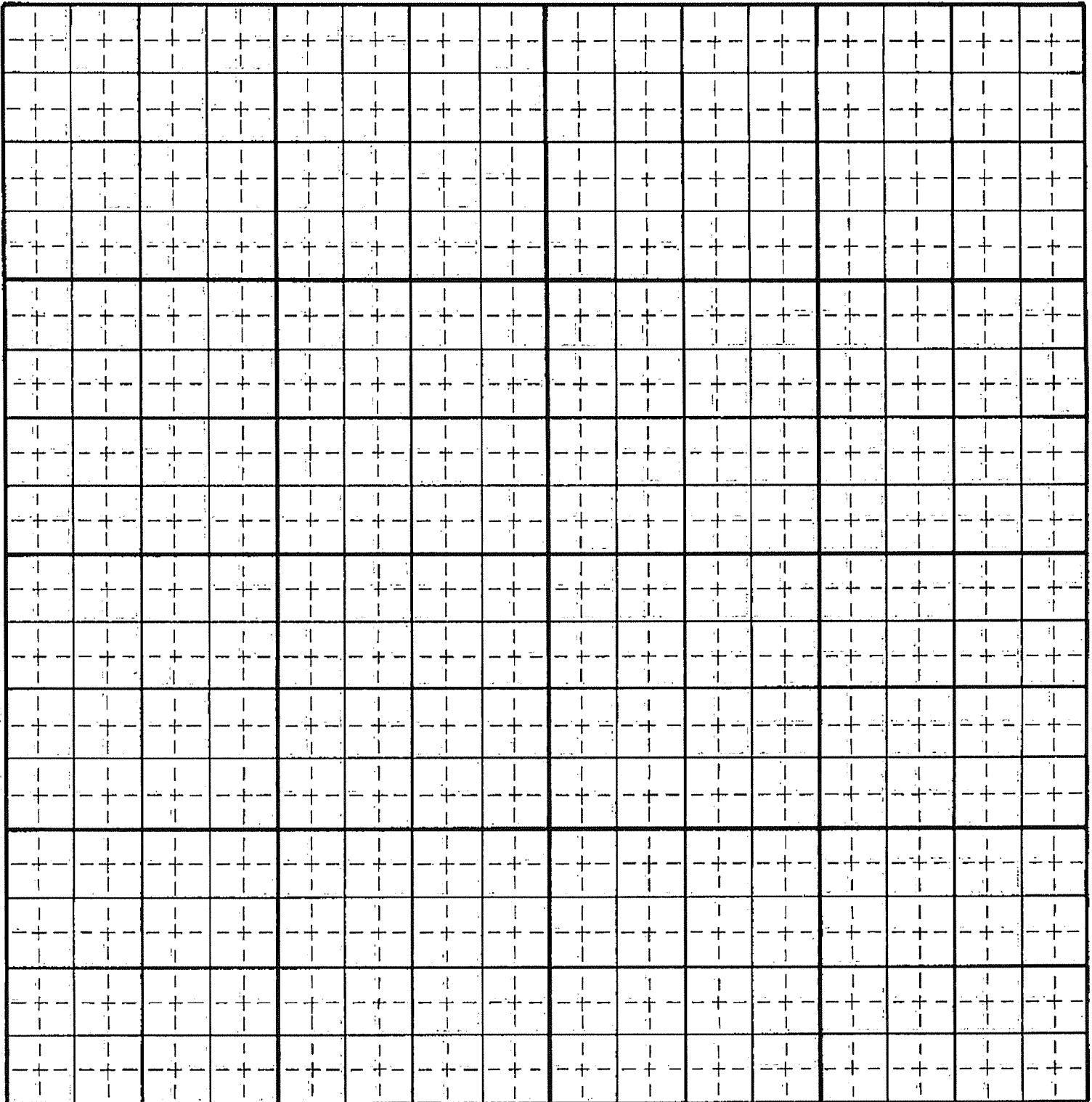
63-00127C , 63-00128C, 63-00129C, 63-00130C, 63-00131C, 63-00178B, and 63-21530 or None ()

13. Remarks:

Last Name Tree Top Ranches, L.P. Identification No. 63-33590

Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below.

Scale: 2 Inches equals 1 mile



Last Name Tree Top Ranches, L.P. Identification No. 63-33590

14. Basis of Claim (Check One) Beneficial Use (☒) Posted Notice (☐) License (☐) Permit (☐) Decree (☐)

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Coeur d'Alene-Spokane River Basin Adjudication." (b.) I/We do (☐) do not (☒) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: -0-

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

President of LDW, Inc., General Partner _____ of Tree Top Ranches, L.P.,

Title

Organization

that I have signed the foregoing document in the space below as

President of LDW, Inc., General Partner _____ of Tree Top Ranches, L.P.,

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date 10-28-11

Title and Organization President of LDW, Inc., General Partner of Tree Top Ranches, L.P.



16. Notice of Appearance:

Notice is hereby given that I, Andrew J. Waldera, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature [Signature] Date 10/28/11

Address Moffatt Thomas Barrett Rock and Fields, Chtd.

P.O. Box 829, Boise, ID 83701-0829

Last Name Tree Top Ranches, L.P. Identification No. 63-33590