

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

Subcase No. 63-00128C

Case No. 39576

JAN 13 2014

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

Clerk
Deputy Clerk

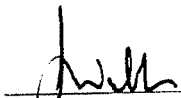
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/OBJECTOR/RESPONDENT

Tree Top Ranches LP


Andrew J. Waldera
Attorney

12/17/13
Date

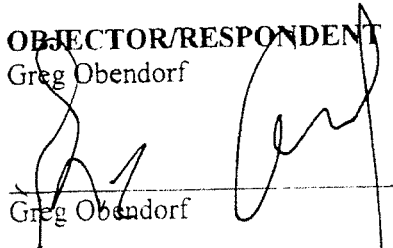
OBJECTOR

The Tina Iest Family LLLP


Helen Tidwell
Date

OBJECTOR/RESPONDENT

Greg Obendorf


Greg Obendorf
Date

10/30/13
Date

RESPONDENT

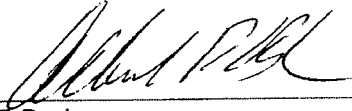
USDA Bureau of Reclamation


David Gehlert
Attorney
Date

12/3/13
Date

RESPONDENT

Boise Project Board of Control



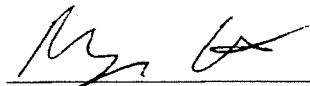
Albert P Barker
Attorney

Date

IDWR Concurrence:

 12-18-13

Jan Shurte Date
Adjudication Technical Specialist

 1/10/2014

Meghan Carter Date
Deputy Attorney General
Attorney for IDWR

SF5 Right No. 63-128C

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-128C
NAME AND ADDRESS: TREE TOP RANCHES LP
PO BOX 8126
BOISE, IDAHO 83707

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER
QUANTITY: 5.280 CFS

Whenever it becomes necessary for the watermaster to deliver this right the following condition shall apply. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1865

POINT OF DIVERSION:
T05N R05W S25 SWSE Lot 2 Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	5.280 CFS

Diversion of irrigation water under this water right prior to April 1 and after October 31 shall occur only when the natural flow of the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE¼ of the SE¼ of the SE¼, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, provided that any such use of this water right prior to April 1 and after October 31 shall not interfere with storage of water under water rights for Lucky Peak, Lake Lowell, Arrowrock, or Anderson Ranch Reservoirs.

SF5 Right No. 63-128C

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S22	SWNE	36.00	T05N R05W S22	SENE	0.70
T05N R05W S22	SENE	21.00	T05N R05W S22	NESW	25.00
T05N R05W S22 Lot 2	SESW	9.30	T05N R05W S22	NESE	26.00
T05N R05W S22	NWSE	34.00	T05N R05W S22 Lot 1	SWSE	22.00
T05N R05W S22	SESE	27.00	T05N R05W S23	NWSW	18.00
T05N R05W S27 Lot 5	NENE	0.30	T05N R05W S27	NWNE	7.30
T05N R05W S27	NENW	6.00			

230.3 ACRES TOTAL

Right Nos. 63-127C, 63-128C, 63-129C, 63-130C, 63-131C, 63-178B, 63-21530 and 63-33590 are limited to the irrigation of a combined total of 373.3 acres in a single irrigation season.

This right is limited to the irrigation of 199.3 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 199.3 acres in a single irrigation season. Combined Right Nos.: 63-127C and 63-128C.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This right originated as all or part of right no. 29 in the Stewart Decree and the historic Boise River Water Masters records.

This right is a split from former right 63-128B.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

AKS
DW
re
KT

CERTIFICATE OF MAILING

I certify that on January 10th, 201⁴~~3~~, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

2. Copies to:

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

BOISE PROJECT BOARD OF CONTROL
Represented by:
ALBERT P BARKER
1010 W JEFFERSON ST STE 102
PO BOX 2139
BOISE, ID 83701-2139

THE TINA IEST FAMILY LLLP
GREG OBENDORF
Represented by:
DANA L HOFSTETTER
608 W FRANKLIN ST
BOISE, ID 83702-5509

TREE TOP RANCHES LP
Represented by:
ANDREW J WALDERA
101 S CAPITOL BLVD 10TH FL
PO BOX 829
BOISE, ID 83701-0829

USDI BUREAU OF RECLAMATION

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

A handwritten signature in black ink, appearing to read "Kim Dato", is written over a horizontal line.

Signature of person or attorney mailing form