

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. 63-33499

STANDARD FORM 5

By

STIPULATED ELEMENTS OF A
WATER RIGHT

Clerk

Deputy Clerk

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

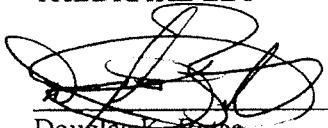
JAN 13 2014

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:
THEDRAKE LLC

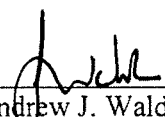

Douglas K. Bates

Manager of BID, LLC the
managing entity of THEDRAKE LLC

1/3/028
Date

RESPONDENT:

Tree Top Ranches LP

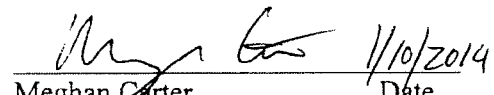

Andrew J. Waldera

Attorney

12/17/13
Date

IDWR Concurrence:


Jan Shurte Date
Adjudication Technical Specialist


Meghan Carter Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 63-33499

NAME AND ADDRESS: ~~THE SNAKE~~ THEDRAKE LLC
C/O DOUGLAS K BATES
950 W BANNOCK ST STE 1050
BOISE ID 83702

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.140 CFS

PRIORITY DATE: 03/01/1964

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

0.140 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in 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 ~~be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.~~ not interfere with storage of water under water rights for Lake Lowell, Lucky Peak, Arrowrock or Anderson Ranch Reservoir.

PLACE OF USE: IRRIGATION in CANYON County

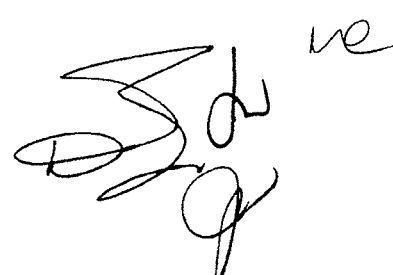
T05N R05W S26 Lot 4 NWNW 7.50

Right Nos 63-176E and 63-33499 are limited to the irrigation of a combined total of 7.5 acres in a single irrigation season

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 - Beneficial Use

Handwritten signature and initials, possibly "D. Bates" and "ne".

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

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

THEDRAKE LLC
Represented by:
DANA L HOFSTETTER
608 W FRANKLIN ST
BOISE, ID 83702-5509



Signature of person or attorney mailing form