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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
JAN 31 2014	
By _____	Clerk
_____	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

Case No. 39576

) SPECIAL MASTER'S REPORT
)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 63-00128C

I. FINDINGS OF FACT

A notice of claim was filed for water right 63-00128 pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of water right 63-00128A.

On March 20, 2009, the Tina Iest Family LLLP *et. al*, through its attorney Dana L. Hofstetter, filed an objection to the *Director's Report*. On January 13, 2014, the parties filed a *Standard Form 5 – Stipulated Elements of a Water Right* which resolved the objection by splitting 63-00128A into 63-00128C and 63-00128D. The Idaho Department of Water Resources concurred with the stipulation.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that water right 63-00128C be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated Jan. 31, 2014

Theodore R. Booth
Theodore R. Booth
Special Master
Snake River Basin Adjudication

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 63-00128C

NAME AND ADDRESS: TREE TOP RANCHES LP
PO BOX 8126
BOISE, ID 83707

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 5.28 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 LOT 2 (SWSE) Within Canyon County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	5.28 CFS

Diversion for irrigation 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, NE1/4 of the SE1/4 of the SE1/4, 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.

PLACE OF USE:	Irrigation	Within Canyon County
	T05N R05W S22	SWNE 36.0 SENE 0.7
		SENE 21.0 NESW 23.0
	LOT 2 (SESW) 9.3	NESE 26.0
		NWSE 34.0 SESE 27.0 LOT 1 (SWSE) 22.0
	S23	NWSW 18.0
	S27 LOT 5 (NENE) 0.3	NWNE 7.0
		NENW 6.0
	230.3 Acres Total	

PLACE OF USE (continued)

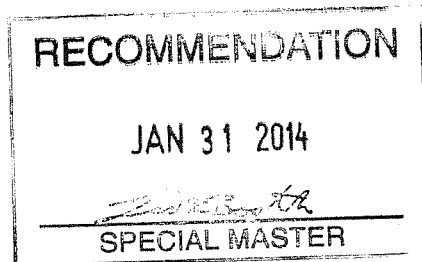
Right Nos. 63-127C, 63-128C, 63-129C, 63-130C, 63-131C, 63-178B, 63-21530 and 63-33590 are limited to the irrigation of a combined total of 373.3 acres in a single irrigation season. The rights listed below are limited to the irrigation of a combined total of 199.3 acres in a single irrigation season. Combined Right Nos.: 63-127C and 63-128C. This right is limited to the irrigation of 199.3 acres within the place of use described above 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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

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