

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-32912

PRIORITY: December 28, 2005

Maximum Diversion Rate: 17.72 CFS
Maximum Diversion Volume: 222.0 AF

It is hereby certified that:

TREE TOP RANCHES LP PO BOX 8126 BOISE ID 83707

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated December 28, 2005, and has submitted Proof of Beneficial Use on December 01, 2017. An examination confirms water is diverted from:

SOURCE:
SAND HOLLOW CREEK

TRIBUTARY:
SNAKE RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
WILDLIFE	11/15 to 03/01	17.72 CFS	155.0 AF
DIVERSION TO STORAGE	11/15 to 03/01	17.72 CFS	
WILDLIFE STORAGE	11/15 to 03/01		66.9 AF

LOCATION OF POINT(S) OF DIVERSION:

SAND HOLLOW CREEK SW¼SE¼ Sec. 15, Twp 05N, Rge 05W, B.M. CANYON County
SAND HOLLOW CREEK SW¼SE¼ Sec. 15, Twp 05N, Rge 05W, B.M. CANYON County

PLACE OF USE: WILDLIFE AND WILDLIFE STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	05W	22		X			X												

CONDITIONS OF APPROVAL

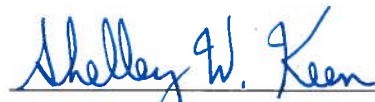
1. The four (4) ponds and eight (8) flooded swales and fields established by the storage of water pursuant to water rights 63-32467, 63-32911, and 63-32912 shall not exceed a total capacity of 171 acre-feet or a total surface area of 63 acres.
2. Rights 63-32467, 63-32911, and 63-32912 authorize a total combined annual storage volume of 182 acre-feet, comprised of 171 acre-feet to be used for the initial filling or carryover storage of the ponds and 11 acre-feet for the replacement of losses caused by seepage and evaporation.
3. Rights 63-32911 and 63-32912 when combined shall not exceed a total diversion rate of 17.72 cfs.
4. Water diverted under the wildlife flow component of this water right shall be returned to Sand Hollow Creek.
5. Wildlife and wildlife storage uses are for habitat improvement during the non-irrigation season.

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-32912

6. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
7. When notified by the Department, the right holder shall install and maintain measuring devices of types acceptable to the Department at the point of diversion and at the point of return to the source stream.
8. The right holder shall install or construct straight lengths of conduit or ditch that will accommodate devices for measuring the entire flow of water being diverted in connection with this right and the entire flow of water being returned to the source stream in connection with this right. If the right holder uses conduit, the straight length(s) of conduit shall be at least ten times the diameter of the conduit and shall be above ground or otherwise easily accessible.
9. The Director retains jurisdiction to require a bypass flow on Sand Hollow Creek for maintenance of fish, wildlife, riparian and aquatic habitat.
10. This right shall be junior and subordinate to future water rights authorizing the diversion and use of water from Sand Hollow Creek and its tributaries, including ground water, for consumptive uses, except that this right shall not be subordinate to future water rights for similar wildlife, recreation and/or aesthetic uses.
11. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
12. This right does not grant any right-of-way or easement across the land of another.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 20th day of March, 2018.



SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-32912

This map depicts the WILDLIFE STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections

0 0.045 0.09 0.18 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

C.L. "Butch" Otter
Governor

Gary Spackman
Director

March 21, 2018

TREE TOP RANCHES LP
PO BOX 8126
BOISE ID 83707

RE: License Nos. 63-32467, 63-32911 & 63-32912

Issuance of Licenses

Dear Water Right Holder(s):

The Department of Water Resources ("Department") has issued the enclosed Water Right Licenses confirming that the water rights have been established in accordance with your permits. Please be sure to thoroughly review all the conditions of approval listed on your licenses. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Also enclosed are copies of the approved applications for amendment.

The licenses are PRELIMINARY ORDERS issued by the Department pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). They can and will become final orders without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Water right forms are available from any office of the Department or on the Department's website at idwr.idaho.gov

If you have any questions concerning the enclosed information, please contact me at (208) 287-4951.

Sincerely,

Pamela S Skaggs
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2018, I served true and correct copies of Water Right License Nos. 63-32467, 63-32911 & 63-32912 by U.S. Mail, postage prepaid, to the following:

TREE TOP RANCHES LP (Current Owner)
PO BOX 8126
BOISE ID 83707

MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD (Attorney)
C/O SCOTT L CAMPBELL
PO BOX 829
BOISE ID 83701-0829

WATER DISTRICT #63
REX BARRIE (Watermaster)
PO BOX 767
STAR ID 83669-0767

SPF WATER ENGINEERING LLC
C/O SCOTT KING
300 E MALLARD DR STE 350
BOISE ID 83706



Darla Block
Technical Records Specialist I

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 63-32912

RECEIVED

MAR 19 2018

DEPARTMENT OF
WATER RESOURCES

PRIORITY: December 28, 2005

Maximum Diversion Rate: 17.72 CFS
Maximum Diversion Volume: 222.0 AF

Comes now

TREE TOP RANCHES LP PO BOX 8126 BOISE ID 83707

and represents to the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 63-32912, and requests that the permit be changed as follows:

SOURCE:
SAND HOLLOW CREEK

TRIBUTARY:
SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
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PLACE OF USE: WILDLIFE AND WILDLIFE STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	05W	22		X			X												

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this 12TH day of MARCH, 2018.

TREE TOP RANCHES, LP

(Signature)

By LDV, INC., ITS PARTNER
LARRY D. WILLIAMS, PRES.

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 63-32912

FOR DEPARTMENT USE ONLY

Preliminary check by TL Fee = 100⁰⁰ Received by TL # C104809 Date 3/19/2018

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 63-32912 with the following:

CONDITIONS OF APPROVAL

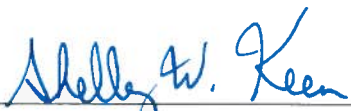
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APPLICATION FOR AMENDMENT
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11. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
12. This right does not grant any right-of-way or easement across the land of another.

This amendment is issued pursuant to the provisions of Section 42-211, Idaho Code.

Signed this 20th day of March, 2018.



SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources

Attachment for Application to Amend a Permit 63-32912

This map depicts the WILDLIFE and WILDLIFE STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.045 0.09 0.18 Miles

