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DEPARTMENT OF  
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT TO  
APPROPRIATE WATER NOS. 63-32458,  
63-32459, 63-62460, 63-32462, 63-33507  
AND 63-33508  
IN THE NAMES OF:  
W & H LIMITED LIABILITY CO.,  
G O INVESTMENTS LLC; and  
TREE TOP RANCHES, L.P.

TREE TOP RANCHES, L.P.'S NOTICE OF  
SERVICE OF EXPERT REPORTS

Tree Top Ranches, L.P. ("Tree Top"), by and through undersigned counsel of record and pursuant to the Idaho Department of Water Resources': (1) Notice of Hearing, and (2) Order Authorizing Discovery and Hearing Order, both dated March 7, 2013, hereby submits its expert report in this matter titled:

*Expert Witness Report Supporting Application for Permit 63-32462 and Protests Against Applications For Permit 63-32459, 63-32460, 63-33507, and 63-33508.*

The report was prepared by Scott King, P.E., of SPF Water Engineering.

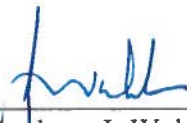
Tree Top reserves the right to supplement and amend this disclosure in the event the expert testimony and/or opinions disclosed and/or rendered by expert witnesses retained by other parties in this matter, either through written reports, depositions, or written discovery answers, require it to retain additional or substitute expert rebuttal witnesses.

Tree Top reserves the right to supplement this disclosure in the event additional facts and information become known prior to hearing that would necessitate it to retain additional expert witnesses.

Tree Top reserves the right to supplement this disclosure in the event the individuals identified herein become unavailable to testify at hearing.

DATED this 26<sup>th</sup> day of September, 2013.

MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED

By   
\_\_\_\_\_  
Andrew J. Waldera – Of the Firm  
Attorneys for Tree Top Ranches, L.P.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26<sup>th</sup> day of September, 2013, I caused the foregoing **TREE TOP RANCHES, L.P.'S NOTICE OF SERVICE OF EXPERT REPORTS** to be served by the method indicated below, and addressed to the following:

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Andrew J. Waldera

**Expert Witness Report  
Supporting Application for Permit  
63-32462  
And Protests Against Applications for Permit  
63-32459, 63-32460, 63-33507 & 63-33508**

*Prepared for*

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**September 26, 2013**



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# **1. TREE TOP RANCHES' APPLICATION FOR PERMIT 63-32462**

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## **1.1. Description of Application**

Application for permit 63-32462 proposes diversion of 20 cfs from Sand Hollow Creek for Wildlife, Diversion to Storage, and Wildlife Storage. Water use will occur during the non-irrigation season from November 15 to March 15. Total proposed storage volume is 91.5 acre feet.

### **1.1.1. Diversion, Use, and Return Flow**

Sand Hollow Creek diversions will occur at Township 5 North, Range 5 West, Section 23 NWNW. This point of diversion is located east of State Highway 95. Storage surface area totals approximately 35.5 acres.

At the proposed 20 cfs diversion rate, the 91.5 acre-feet maximum storage capacity will be reached is approximately 2.5 days. Overflow is discharged to the Parma Canal at the west border of the place of use where it will flow approximately 1.6 miles and return to Sand Hollow Creek at 5N 5W Section 16 NENW. See Figure 1 for a system diagram.

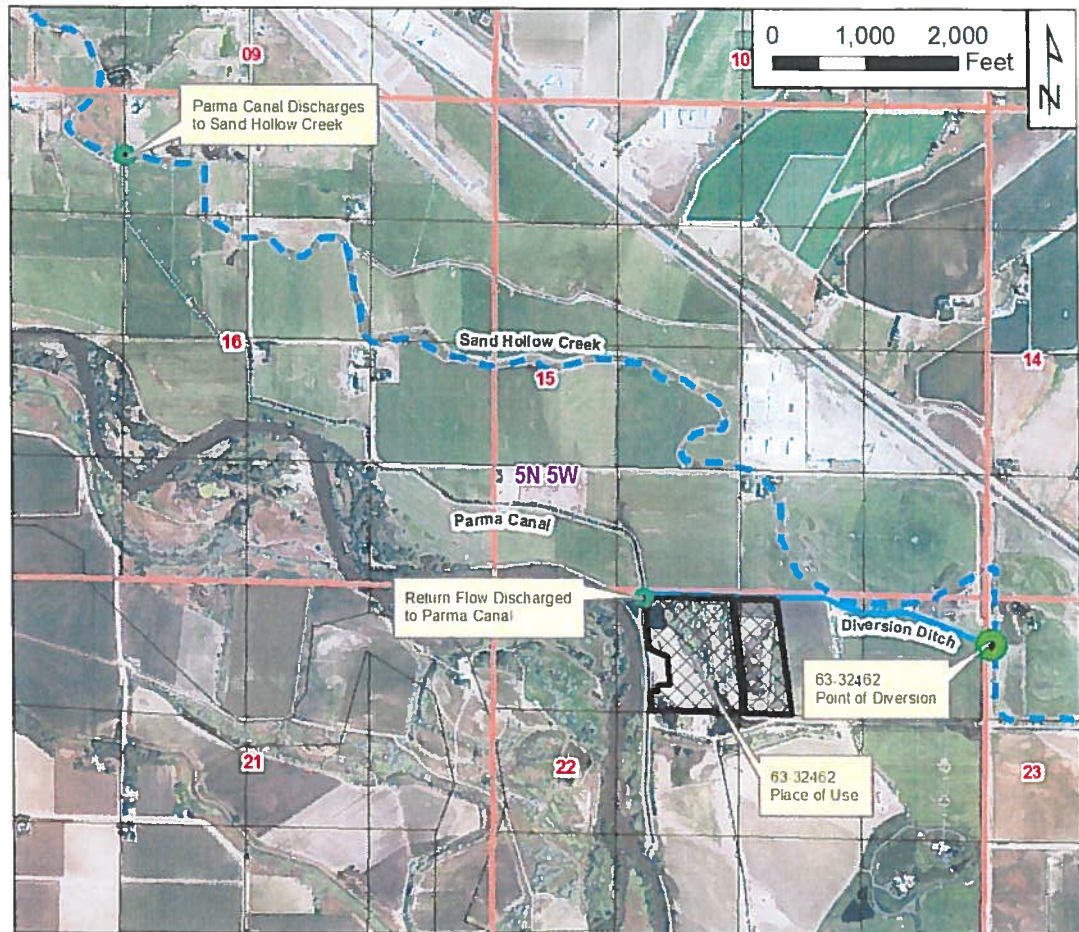


Figure 1: System map depicting the point of diversion, place of use, and return flow points.

### 1.1.2. Infrastructure

All infrastructure required for developing this application is currently in place and has been used for existing irrigation water rights. The diversion point consists of a check structure and concrete headgate within Sand Hollow Creek to a 36-inch concrete pipe under Highway 95 to a system of earthen conveyance ditches flowing westerly to the place of use. This existing point of diversion is authorized by decreed water right no. 63-4534B.

Return flow is discharged into the Parma Canal at one location as depicted in Figure 1 which conveys water into the Parma Canal via a corrugated metal pipe. The Parma Canal discharges into Sand Hollow Creek at T5N R5W Section 16. Photographs of the diversion and return structures are included in Appendix A.

### **1.1.3. Overlapping rights**

Water right permits 63-32466 and 63-32912 authorize diversion from Sand Hollow Creek for wildlife use on the tracts proposed for use by 63-32462. Diversions for these permits occur at Deb Lane (63-32466) and from a pumped diversion on Tree Top Ranches' property (63-32912)<sup>1</sup>.

### **1.1.4. Consumptive Use**

Non-irrigation season consumptive water use for the proposed project is calculated using data provided by the University of Idaho and termed "ET<sub>Idaho</sub>2012" in this report (Allen, 2012). Peak mean evaporation, based on shallow open water systems, during the non-irrigation season from November through March is 1.93 mm per day (0.076 inches per day) using data from the Parma Experiment Station. This evaporation rate translates to a constant-flow requirement of 0.0032 cfs per acre, which is equivalent to 0.11 cfs for the 35.5-acre proposed place of use. Peak consumptive use of 0.11 cfs is negligible (i.e., less than 1%) and not measureable when compared to the proposed 20-cfs diversion rate. ET<sub>Idaho</sub>2012 data and evaporation calculations are included in Appendix B. This negligible consumption is confirmed by IDWR memoranda and communication attached as Appendix C.

## **1.2. Protests Against Application for Permit 63-32462**

### **1.2.1. Idaho Department of Fish and Game**

Idaho Department of Fish and Game (IDFG) protested application for permit 63-32462 over concerns that decreased flows in Sand Hollow Creek could have a detrimental effect on downstream IDFG water rights and wildlife uses at Fort Boise Wildlife Management Area. The applicant, Tree Top Ranches, stipulated with IDFG that water diverted from Sand Hollow Creek under this application would be returned to Sand Hollow Creek after use by Tree Top Ranches. The diversion, use, and return flow characteristics are described in section 1.1.1. Based on the stipulated agreement, the IDFG protest has agreed to withdraw its protest. A copy of the stipulation is provided as Appendix D.

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<sup>1</sup> If fully consummated as planned through final implementation of the Andrews Ditch-related settlement agreement (see Appendix E), Tree Top Ranches will relinquish permit 63-32466 (20 cfs) thereby lessening demand on Sand Hollow Creek and providing substitute water for 63-32462.

### **1.2.2. Greg Obendorf**

Greg Obendorf protested application for permit 63-32462 on grounds that the proposed use will reduce the quantity of water available to other senior water rights; the water supply appears insufficient to fulfill the proposed use; the downstream IDFG's Fort Boise Wildlife Management Area will be adversely affected; and downstream conditions and habitat will be adversely affected in conflict with the local public interest. That protest was resolved in exchange for IDFG's requested return flow condition as documented in the Andrews Ditch-related settlement agreement, dated February 11, 2011. A copy of that Agreement is found in Appendix E.

### **1.2.3. Watson**

J.F. Watson Farms Company protested application for permit 63-32462 on grounds that the proposed use will reduce the quantity of water available to other senior water rights including Watson's application for permit no. 63-32461; the water supply appears insufficient to fulfill the proposed use along with other senior uses; the downstream IDFG's Fort Boise Wildlife Management Area will be adversely affected; and downstream conditions and habitat will be adversely affected in conflict with the local public interest.

## **1.3. Injury**

Application for permit 63-32462 proposes non-irrigation season diversions from Sand Hollow Creek for beneficial wildlife uses. Because this is a non-irrigation season use, there should be minimal competition with irrigation water rights with the exception of potential overlapping periods early and late in the irrigation season (see further discussion below). The primary competition for the proposed diversion will be with other non-irrigation season water rights.

Only one non-irrigation use point of diversion, owned by Tree Top Ranches, exists on Sand Hollow Creek between the proposed points of diversion and return and is represented by water right permit no. 63-32912, located at 5N 5W 15 SWSE. This point is also authorized for irrigation season diversions by Tree Top Ranches for water right nos. 63-4641A, 63-4641B, and 63-7921.

Three other diversions exist between the 63-32462 Sand Hollow Creek diversion and return points, all of which are owned by Johnson Research and authorized by water right numbers 63-9432 & 63-7576 (5N 5W 23 NWNW), 63-4536 & 63-5197 (5N 5W 15 NWSE), and 63-4534A (5N 5W 16 SWNE). These irrigation rights hold priority dates senior to application for permit no. 63-32462. Some of these rights have use seasons that overlap the season for 63-32462. See Table 1 which identifies "potential conflict" for rights with overlapping seasons of use. For example, Johnson Research right 63-7576 has a season of use from March 20 to November 20 while 63-32462 proposes a season from November 15 to March 15. There may be a conflict with Johnson Research's senior right from November 15 to November 20 and Tree Top Ranch may

need to reduce diversions late and/or early in the season to ensure senior downstream rights, particularly those between the diversion and return points, are fully met.

Consumptive losses are calculated to be very low with equivalent maximum evaporative losses of approximately 0.11 cfs, which is minimal when compared to the 20 cfs diversion rate (see section 1.1.4). Water will flow through the wildlife ponds and return to Sand Hollow Creek via the Parma Canal. This conclusion is supported by IDWR memoranda and communication included in Appendix C.

With the exception of the Johnson Research irrigation rights described above, the proposed diversion is not expected to significantly reduce flows available to downstream points of diversion. Return flows will re-enter Sand Hollow Creek upstream of points of diversion utilized by IDFG under existing rights and also upstream of JF Watson's proposed diversion under application 63-32461. All downstream non-irrigation season water rights, including JF Watson's application 63-32461, hold priority dates senior to Tree Top Ranches' application 63-32912. If flow in Sand Hollow Creek is insufficient to fill these downstream senior-priority water rights, these water right holders can place a priority call against Tree Top Ranches' junior-priority diversions.

Per my communication with Brett Seward, seepage losses in Parma Canal during the non-irrigation season are likely low or nonexistent because the canal appears to be a gaining system, receiving shallow ground water<sup>2</sup>. Groundwater gains to the canal are further supported by the canal configuration, elevation, and location in the Boise River bottomlands. As an example, Figure 2 is a point of local groundwater discharge to the canal. This point of discharge demonstrates that local groundwater levels are higher than the water surface of the canal. This is typical of low-elevation ditches in the lower Boise River system which often drain shallow ground water aquifer systems and often flow year-round even when headgates are closed. In addition, Tree Top Ranches' water diverted under water right permits 63-32466 and 63-32912 also returns to the Parma Canal, which subsequently flows to Sand Hollow Creek. This water already flowing into the Parma Canal further mitigates potential seepage losses, if any, incurred by the additional water flowing into the canal under 63-32462.

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<sup>2</sup> Scott King's personal communication with Brett Seward, Tree Top Ranches ranch manager, September 24, 2013.



Figure 2: Groundwater-sourced discharge to Parma Canal on Tree Top Ranches property.

Table 1: Points of diversion from Sand Hollow Creek located between the proposed diversion and return points (see Figure 3).

| Point of Diversion | Name             | Water Right Number | Status      | Priority   | Source                             | Diversion Rate (cfs) | Use        | Season       | Potential Conflict |
|--------------------|------------------|--------------------|-------------|------------|------------------------------------|----------------------|------------|--------------|--------------------|
| 1                  | Tree Top Ranches | 63-32462           | Application | 12/28/2005 | Sand Hollow Creek                  | 20                   | Wildlife   | 11/15 - 3/15 |                    |
| 1                  | Tree Top Ranches | 63-4534B           | Decree      | 3/1/1935   | Sand Hollow Creek                  | 1.6                  | Irrigation | 3/1 - 11/15  | n/a                |
| 2                  | Johnson Research | 63-7576            | Decree      | 4/3/1972   | Sand Hollow Creek                  | 0.46                 | Irrigation | 3/20 - 11/20 | Yes                |
| 2                  | Johnson Research | 63-9432            | Decree      | 8/6/1980   | Sand Hollow Creek                  | 0.16                 | Irrigation | 3/15 - 11/15 | Yes                |
| 3                  | Tree Top Ranches | 63-4641A           | Decree      | 3/1/1935   | Sand Hollow Creek<br>Unnamed Drain | 1.62                 | Irrigation | 3/1 - 11/15  | n/a                |
| 3                  | Tree Top Ranches | 63-4641B           | Decree      | 3/1/1935   | Sand Hollow Creek<br>Unnamed Drain | 0.06                 | Irrigation | 3/1 - 11/15  | n/a                |
| 3                  | Tree Top Ranches | 63-7921            | Decree      | 1/28/1974  | Sand Hollow Creek                  | 0.32                 | Irrigation | 4/1 - 11/1   | n/a                |
| 3                  | Tree Top Ranches | 63-32912           | Permit      | 12/28/2005 | Sand Hollow Creek                  | 20                   | Wildlife   | 11/15 - 3/1  | n/a                |
| 4                  | Johnson Research | 63-4536            | Decree      | 3/1/1931   | Sand Hollow Creek                  | 0.97                 | Irrigation | 3/1 - 11/15  | Yes                |
| 4                  | Johnson Research | 63-5197            | Decree      | 3/1/1931   | Sand Hollow Creek                  | 0.89                 | Irrigation | 3/1 - 11/15  | Yes                |
| 5                  | Johnson Research | 63-4534A           | Decree      | 3/1/1931   | Sand Hollow Creek                  | 0.46                 | Irrigation | 3/1 - 11/15  | Yes                |

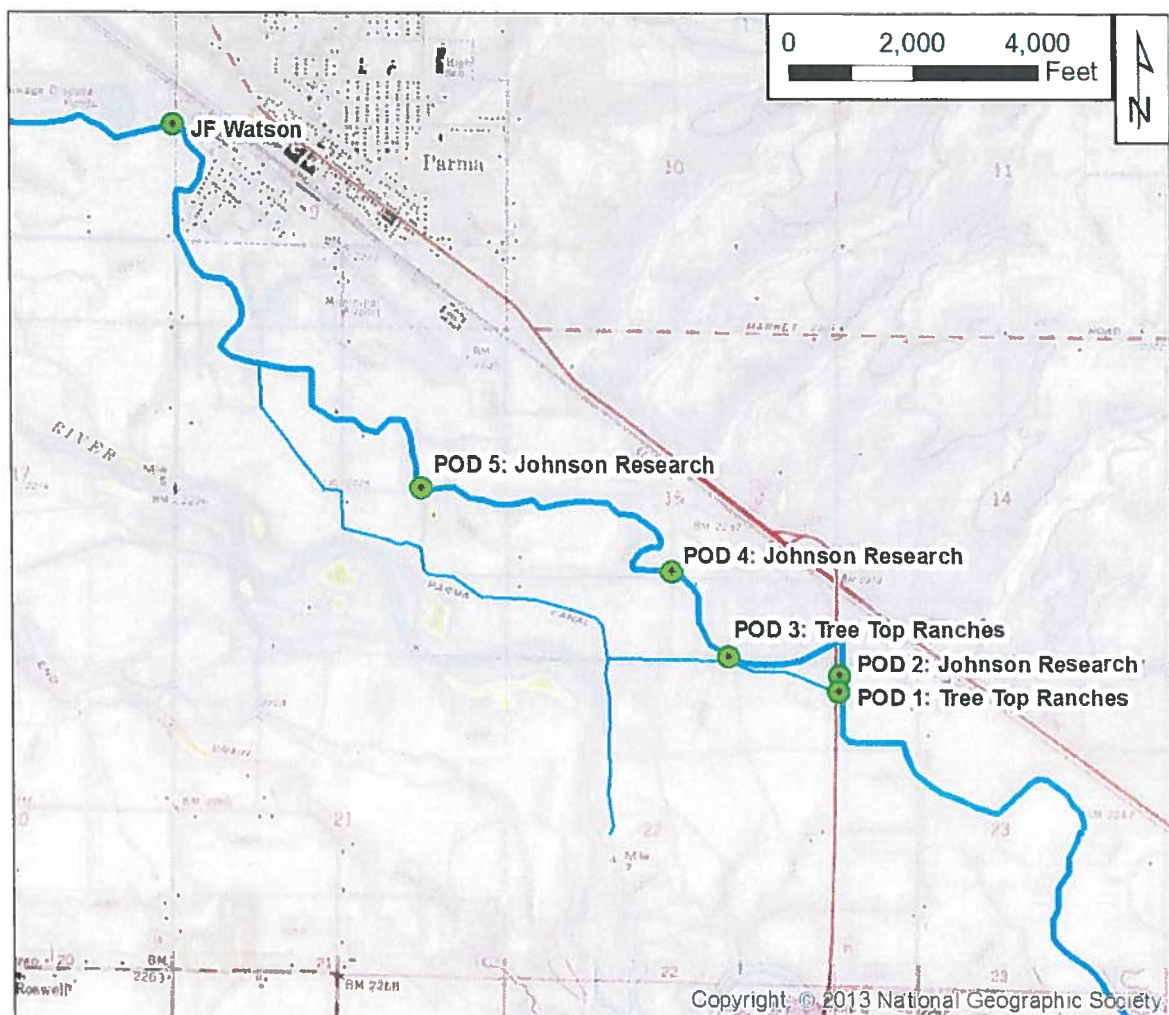


Figure 3: Points of diversion from Sand Hollow Creek from 63-32462 to 63-32461 (see Table 1); IDF&G upper point of diversion is approximately three miles downstream of JF Watson point of diversion above.

Table 2: Non-irrigation season diversions from Sand Hollow Creek and location with respect to application 63-32462 point of diversion (see Figure 4).

| Name             | Water Right Number | Status      | Priority   | Source                                | Diversion Rate (cfs) | Use                  | Season       | Location wrt 63-32462 |
|------------------|--------------------|-------------|------------|---------------------------------------|----------------------|----------------------|--------------|-----------------------|
| Stephens         | 63-4833            | Decree      | 7/1/1875   | Sand Hollow Creek                     | 0.04                 | Stockwater           | 1/1 - 12/31  | Upstream              |
| MacDowell        | 63-4598            | Decree      | 6/1/1954   | Sand Hollow Creek                     | 0.02                 | Stockwater           | 1/1 - 12/31  | Upstream              |
| Obendorf         | 63-10867           | License     | 8/14/1989  | Sand Run Gulch Creek<br>Unnamed Ditch | 3                    | Wildlife             | 1/1 - 12/31  | Upstream              |
| Obendorf         | 63-32067           | Permit      | 12/8/2004  | Sand Run Gulch Creek                  | 90                   | Wildlife             | 11/15 - 3/15 | Upstream              |
| Tree Top Ranches | 63-32466           | Permit      | 12/28/2005 | Sand Hollow Creek                     | 20                   | Wildlife             | 11/15 - 3/1  | Upstream              |
| Johnson          | 63-32647           | Application | 4/20/2007  | Sand Hollow Creek                     | 4.53                 | Diversion to Storage | 1/1 - 12/31  | Upstream              |
| Tree Top Ranches | 63-32462           | Application | 12/28/2005 | Sand Hollow Creek                     | 20                   | Wildlife             | 11/15 - 3/15 | Diversion Proposed    |
| IDFG             | 63-4638            | Decree      | 11/6/1938  | Sand Hollow Creek                     | 2.36                 | Wildlife             | 1/1 - 12/31  | Downstream            |
| IDFG             | 63-4640            | Decree      | 4/16/1962  | Sand Hollow Creek                     | 1.04                 | Wildlife             | 1/1 - 12/31  | Downstream            |
| IDFG             | 63-9218            | Decree      | 3/12/1979  | Sand Hollow Creek                     | 5.16                 | Diversion to Storage | 1/1 - 12/31  | Downstream            |
| JF Watson        | 63-32461           | Application | 12/19/2005 | Sand Hollow Creek                     | 30                   | Wildlife             | 11/15 - 3/15 | Downstream            |
| Tree Top Ranches | 63-32912           | Permit      | 12/28/2005 | Sand Hollow Creek                     | 20                   | Wildlife             | 11/15 - 3/1  | Downstream            |



Figure 4: Non irrigation diversions from Sand Hollow Creek (see Table 2).

#### 1.4. Sufficiency of Supply

Diversions from Sand Hollow Creek under application for permit 63-32462 will flow through a series of wildlife ponds to the Parma Canal and return to Sand Hollow Creek. These low-elevation lands are situated along the lower Boise River where ground water levels are typically high. It is expected that a high percentage of the diverted water will return to Sand Hollow Creek. Prior IDWR memoranda and correspondence support this conclusion (Appendix C).

The USGS operated stream gaging station no. 13213072 on Sand Hollow Creek (titled by USGS as "Sand Run Gulch near Parma, Idaho") from August 1979 through September 1981. This gage was located at 5N 5W Section 6 (approximately in SENE). Mean monthly discharges during November through March ranged from

approximately 55 to 79 cfs (see Appendix F). This gage was located downstream of JF Watson's proposed point of diversion for application 63-32461 and upstream of IDFG diversions to Fort Boise Wildlife Management Area.

Assuming that other wildlife diversions upstream of 63-32462 (i.e. 63-32076 and 63-32466) return to Sand Hollow Creek, the flows reported by USGS from this gaging station demonstrate a high likelihood of sufficient flows in Sand Hollow Creek to meet diversions proposed by 63-32462.

In addition, a site visit made by IDWR staff Steve Lester is also supportive of sufficient quantities in Sand Hollow Creek to supply applications for wildlife projects (Lester, 2006) (Appendix G).

### **1.5. Good Faith**

The infrastructure required to divert and convey water from Sand Hollow Creek to the place of use, to beneficially use water for wildlife purposes, and return the water to Sand Hollow Creek already exists. Water could be immediately diverted and used upon approval of 63-32462. The application is made in good faith. Tree Top has an agreement for discharge of return flows from application for permit 63-32462 to the Parma Canal (Appendix D).

### **1.6. Financial Resources**

The infrastructure is already developed in conjunction with other existing irrigation and wildlife rights and uses. Any additional financial expenditure to develop water under application 63-32462 will be minimal if any.

### **1.7. Local Public Interest**

"Wildlife" use is a well-known beneficial use of water in Idaho. Research of IDWR records indicates many hundreds of wildlife use water rights exist in the State, with over 100 of these being privately owned. For example, in the Parma area, the following are just a few of the wildlife-use water rights identified:

- 63-30224 owned by Waterfowl Improvement Association with a May 10, 1926 priority date,
- 63-4530B owned by FDF Inc. with a May 10, 1926 priority date, and
- 63-7721 owned by J Glaisyer with a February 12, 1973 priority date
- 63-32067 owned by Greg and Ann Obendorf with a December 8, 2004 priority date
- 63-32911 and 63-32912 owned by Tree Top Ranches with priority dates of December 28, 2005.

## **2. TREE TOP RANCHES PROTESTS AGAINST 63-32459, 63-32460, 63-33507 & 63-33508**

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### **2.1. Description of Applications**

#### **2.1.1. Application for Permit No. 63-32459 and 63-33507**

Applications for permit nos. 63-32459 and 63-33507 propose diverting 24 cfs from the Boise River for wildlife use in a pond. Application 63-32459 has a priority date of April 5, 2005 and proposes use from November 16 to February 28. Application 63-33507 has a May 11, 2011 priority date and proposes use from March 1 to November 15. The applications do not include a storage component<sup>3</sup>. Both applications list the same point of diversion located at T05N R05W Section 27 Lot 3 (NENW) and place of use at T05N R05W Section 21 Lot 10 (SESE) and Section 22 Lot 5 (SWSW). The proposed diversion occurs from a side channel of the Boise River at the diversion used by Haas Ditch Company for the Lower Haas Ditch.

The side channel from which diversions are proposed forms a west channel of the Boise River around an island locally known as McConnell Island.

#### **2.1.2. Application for Permit No. 63-32460 and 63-33508**

Applications for permit nos. 63-32460 and 63-33508 propose diverting 6 cfs from an unnamed drain tributary to the Boise River for wildlife use in a pond. Application 63-32460 has a priority date of April 5, 2005 and proposes diversion from November 16 to February 28 with a year-round storage component of 40 acre-feet. Application 63-33508 has a May 11, 2011 priority date and proposes diversion from March 1 to November 15 with a year-round storage component of 40 acre-feet. Both applications identify a point of diversion at T05N R05W Section 27 Lot 4 (NWNW) and place of use at Section 22 Lot 5 (SWSW) and Section 27 Lot 4 (NWNW). The source is also known as Baldrige and/or Meadows Drain. The diversion point is locally known as the diversion point for the Upper Haas Ditch.

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<sup>3</sup> Lack of a storage component for diversions to a pond implicates the application of IDWR's policy regarding storage under the "24-hour" fill rule.

## **2.2. Tree Top Ranches Protest**

### **2.2.1. Tree Top Ranches Protest Against 63-32459**

Tree Top Ranches protest against 63-32459 is based on three main concerns: 1) proposed water use alters non-irrigation season Boise River flows around in-channel island and corresponding wildlife habitat; 2) Haas Ditch point of diversion can commingle Boise River and nearby drain flows; and 3) water diverted as proposed is diverted from, but not necessarily returned to, the Boise River, leading to diminished Boise River flows.

Tree Top Ranches seeks: 1) sufficient conditioning of the permit to protect non-irrigation season Boise River flows around in-channel island; 2) adequate water diversion measurement and accounting requirements at Haas Ditch point of diversion; and 3) requirement that water diverted be returned to the Boise River.

### **2.2.2. Tree Top Ranches Protest Against 63-33507**

Tree Top Ranches is concerned that additional diversion of Boise River water at this location will reduce flows in the westerly side channel around McConnell Island to the detriment of the health and integrity of the channel and existing wildlife habitat and will promote channel stagnation and nuisance vegetative growth.

### **2.2.3. Tree Top Ranches Protest Against 63-32460**

Tree Top Ranches protest against 63-32460 is based on three main concerns: 1) proposed water use alters non-irrigation season Boise River flows around in-channel island and corresponding wildlife habitat; 2) the proposed point of diversion can commingle Boise River and nearby drain flows; and 3) water diverted as proposed is diverted from, but not necessarily returned to, the Boise River, leading to diminished Boise River flows.

Tree Top Ranches seeks: 1) sufficient conditioning of the permit to protect non-irrigation season Boise River flows around in-channel island; 2) adequate water diversion measurement and accounting requirements at the proposed point of diversion; and 3) requirement that water diverted under this permit be returned to the Boise River after its authorized use.

### **2.2.4. Tree Top Ranches Protest Against 63-33508**

Similar to its protests against 63-33507, Tree Top Ranches is concerned that diversions under this application could include and reduce Boise River flows to the detriment of the health and integrity of the westerly side channel and the habitat it supports. Tree Top Ranches seeks strict measurement and accounting of drain flows and diversion under the permit and requirements that the diversion works be capable of preventing the diversion of co-mingled drain and Boise River Flows.

### 2.3. Analysis

On September 24, 2013, I visited the site proposed for diversion by applications 63-33507, 63-33508, 63-32459, and 63-32460 with Brett Seward, Tree Top Ranches ranch manager. The west Boise River side channel around the island locally known as "McConnell Island" appeared thick and overgrown below the check dam (see photos in Appendix H). Brett Seward identified the check structure located in the channel and currently used by Hass Ditch Company and proposed for use by GO Investments to divert water from the channel. Additional diversion at this location will reduce flow in the side channel below the check structure. Reduced flow will likely result in additional sediment deposition, channel accretion, increased vegetation, and stagnation downstream of the check, all of which are likely to yield diminished wildlife habitat downstream.

All four of the applications will divert water from the Boise River, or tributary to the Boise River, depleting flow in the channel on the west side of McConnell Island, and depleting flow in the Boise River downstream to the mouth of the river. The diverted flow will return to the Snake River rather than the Boise River. The decrease in flow will diminish the side channel habitat valued by Tree Top and others that recreate along the Boise River. This decrease in flow threatens the continued viability of the existing channel west of McConnell Island and related habitat.

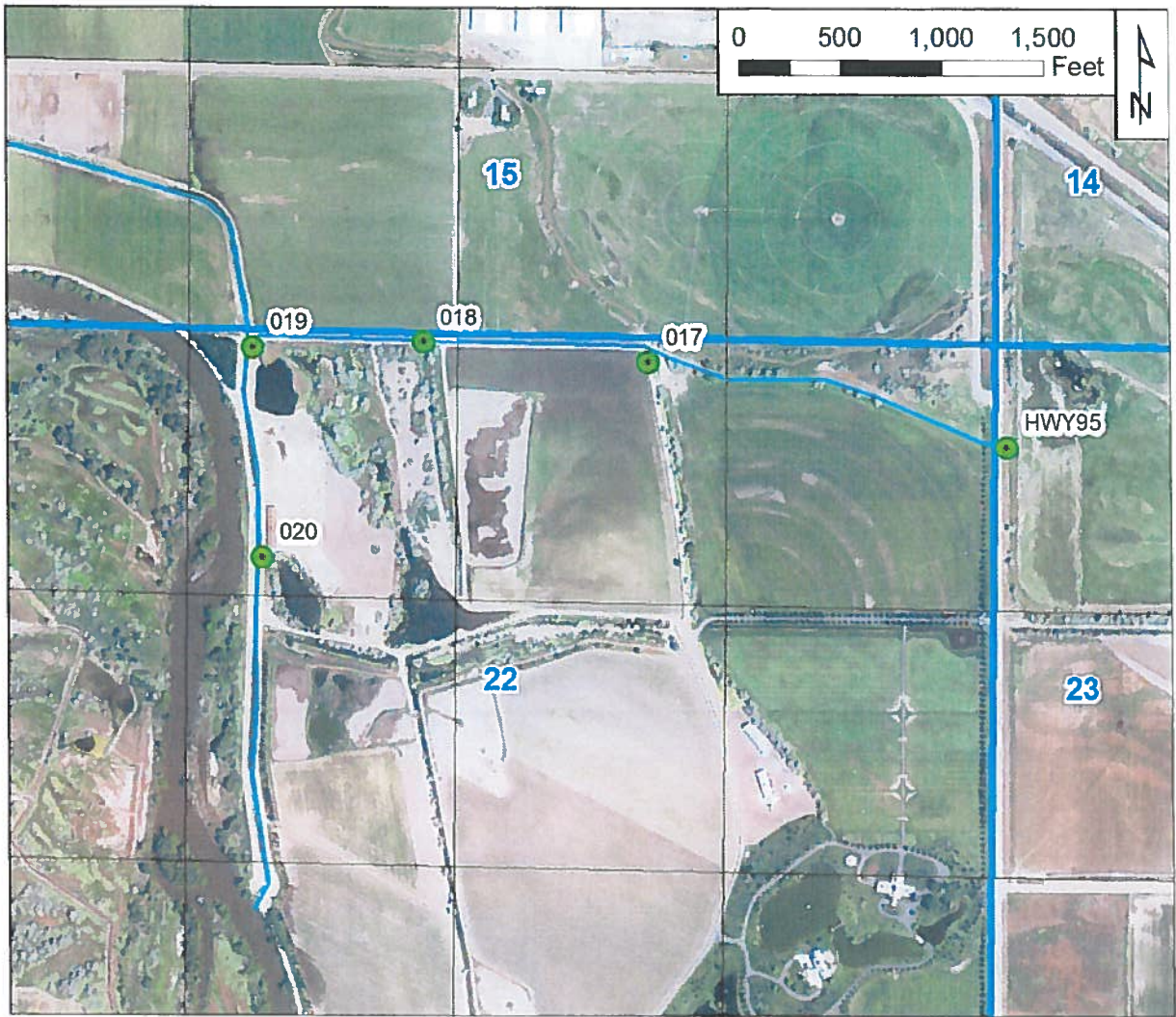
### 3. REFERENCES

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Allen, R. G. (2012). *Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho: Supplement updating the Time Series through December 2008*. Moscow, ID: University of Idaho.

Lester, S. (2006). *Site Visit for Creek Measurements*. Boise, ID: Idaho Department of Water Resources.

**APPENDIX A**  
**Photos related to Application for Permit 63-32462**



GPS points correlated with photos.



HWY 95: Check structure in Sand Hollow Creek at Highway 95. Headgate under branches to photo left.



HWY 95: Headgate controlling diversions from Sand Hollow Creek at Highway 95.



**HWY 95:** Photo facing west down ditch conveying water diverted from Sand Hollow Creek at HWY 95.



**17:** Facing east upstream, ditch conveying Sand Hollow Creek water to place of use.



**17:** Facing west, Sand Hollow Creek water is conveyed via culvert pipe across the drain to the field to west where it flows westerly to the place of use.



**17:** Sand Hollow Creek water flows westerly to point 18.



**18:** Lower takeout from ditch are two 11-inch pipes on photo right at orange tarp.



**18:** Water diverted from supply ditch flows into ditch between these trees to place of use.



**19:** Water leaving place of use and entering culvert pipe to flow into Parma Canal.



**19:** Parma Canal facing downstream with flow leaving place of use discharging from culvert pipe.



**20:** Ground water sourcing from pond to the southeast is discharged to Parma Canal.

**APPENDIX B**  
**Consumptive Evaporation ( $ET_{Idaho}$  2012) Data**

# ET Idaho 2012 -- Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho

Please send suggestions for improving this site to [robinson@kimberly.uidaho.edu](mailto:robinson@kimberly.uidaho.edu) Copyright 2012, University of Idaho

## Parma Experiment Station (NWS -- 106844)

Statistics based on thirty year normal spans 1973 to 2010 years

For a different land cover or crop click on the above link

You can highlight this table and copy via the clipboard to a Microsoft Excel or OpenOffice spreadsheet to plot or otherwise work with this data

| Open water - shallow systems (ponds, streams)                                      |        |      |      |      |      |       |       |       |       |      |       |      |                             |                                 |        |
|------------------------------------------------------------------------------------|--------|------|------|------|------|-------|-------|-------|-------|------|-------|------|-----------------------------|---------------------------------|--------|
| Actual Evapotranspiration <a href="#">(Click here for a graph)</a>                 |        |      |      |      |      |       |       |       |       |      |       |      |                             |                                 |        |
|                                                                                    | Jan    | Feb  | Mar  | Apr  | May  | Jun   | Jul   | Aug   | Sep   | Oct  | Nov   | Dec  | Growing Season <sup>a</sup> | Non Growing Season <sup>b</sup> | Annual |
| Mean <sup>j</sup>                                                                  | mm/day |      |      |      |      |       |       |       |       |      |       |      | mm                          |                                 |        |
| Monthly <sup>c</sup>                                                               | 0.34   | 0.80 | 1.90 | 2.92 | 3.65 | 4.06  | 4.40  | 3.86  | 2.92  | 1.85 | 0.77  | 0.33 | 849                         | 0                               | 849    |
| 15-Day Moving Average <sup>d</sup>                                                 | 0.33   | 0.78 | 1.93 | 2.94 | 3.70 | 4.06  | 4.41  | 3.85  | 2.89  | 1.88 | 0.75  | 0.32 |                             |                                 |        |
| 7-Day Moving Average <sup>e</sup>                                                  | 0.34   | 0.79 | 1.91 | 2.92 | 3.67 | 4.06  | 4.41  | 3.86  | 2.90  | 1.86 | 0.76  | 0.32 |                             |                                 |        |
| 3-Day Moving Average <sup>f</sup>                                                  | 0.34   | 0.80 | 1.90 | 2.92 | 3.65 | 4.06  | 4.40  | 3.86  | 2.91  | 1.85 | 0.77  | 0.33 |                             |                                 |        |
| Standard Deviation <sup>k</sup>                                                    | mm/day |      |      |      |      |       |       |       |       |      |       |      | mm                          |                                 |        |
| Monthly <sup>c</sup>                                                               | 0.09   | 0.15 | 0.39 | 0.31 | 0.42 | 0.28  | 0.33  | 0.31  | 0.24  | 0.28 | 0.14  | 0.11 | 30                          | 0                               | 30     |
| 15-Day Moving Average <sup>d</sup>                                                 | 0.09   | 0.19 | 0.37 | 0.39 | 0.48 | 0.40  | 0.28  | 0.34  | 0.36  | 0.28 | 0.19  | 0.09 |                             |                                 |        |
| 7-Day Moving Average <sup>e</sup>                                                  | 0.11   | 0.26 | 0.45 | 0.53 | 0.66 | 0.58  | 0.36  | 0.44  | 0.46  | 0.39 | 0.25  | 0.12 |                             |                                 |        |
| 3-Day Moving Average <sup>f</sup>                                                  | 0.14   | 0.31 | 0.54 | 0.69 | 0.83 | 0.76  | 0.50  | 0.55  | 0.57  | 0.48 | 0.30  | 0.15 |                             |                                 |        |
| 20% Exceedance <sup>l</sup>                                                        | mm/day |      |      |      |      |       |       |       |       |      |       |      | mm                          |                                 |        |
| Monthly <sup>c</sup>                                                               | 0.38   | 0.93 | 2.06 | 3.17 | 3.92 | 4.29  | 4.57  | 4.04  | 3.12  | 2.00 | 0.89  | 0.38 | 877                         | 0                               | 877    |
| 15-Day Moving Average <sup>d</sup>                                                 | 0.45   | 1.16 | 2.50 | 3.50 | 4.50 | 4.73  | 4.81  | 4.36  | 3.44  | 2.37 | 1.13  | 0.45 |                             |                                 |        |
| 7-Day Moving Average <sup>e</sup>                                                  | 0.51   | 1.45 | 2.76 | 4.08 | 4.95 | 5.05  | 4.99  | 4.56  | 3.70  | 2.71 | 1.27  | 0.58 |                             |                                 |        |
| 3-Day Moving Average <sup>f</sup>                                                  | 0.62   | 1.58 | 3.22 | 4.57 | 5.35 | 5.38  | 5.29  | 4.71  | 3.98  | 2.87 | 1.50  | 0.66 |                             |                                 |        |
| 80% Exceedance <sup>m</sup>                                                        | mm/day |      |      |      |      |       |       |       |       |      |       |      | mm                          |                                 |        |
| Monthly <sup>c</sup>                                                               | 0.30   | 0.65 | 1.64 | 2.69 | 3.36 | 3.75  | 4.20  | 3.69  | 2.73  | 1.70 | 0.59  | 0.26 | 821                         | 0                               | 821    |
| 15-Day Moving Average <sup>d</sup>                                                 | 0.21   | 0.50 | 1.41 | 2.36 | 2.97 | 3.23  | 3.99  | 3.27  | 2.30  | 1.39 | 0.47  | 0.19 |                             |                                 |        |
| 7-Day Moving Average <sup>e</sup>                                                  | 0.11   | 0.34 | 1.03 | 1.97 | 2.48 | 2.87  | 3.57  | 2.83  | 1.94  | 1.13 | 0.38  | 0.11 |                             |                                 |        |
| 3-Day Moving Average <sup>f</sup>                                                  | 0.06   | 0.27 | 0.84 | 1.70 | 1.97 | 2.21  | 3.08  | 2.33  | 1.65  | 0.92 | 0.29  | 0.04 |                             |                                 |        |
| Ave Highest ET <sub>act</sub>                                                      | mm/day |      |      |      |      |       |       |       |       |      |       |      | --                          |                                 |        |
| 15-Day Moving Average <sup>g</sup>                                                 | 0.41   | 0.97 | 2.23 | 3.23 | 4.12 | 4.46  | 4.63  | 4.17  | 3.21  | 2.15 | 0.94  | 0.40 |                             |                                 |        |
| 7-Day Moving Average <sup>h</sup>                                                  | 0.48   | 1.15 | 2.46 | 3.64 | 4.59 | 4.83  | 4.84  | 4.40  | 3.49  | 2.39 | 1.12  | 0.48 |                             |                                 |        |
| 3-Day Moving Average <sup>i</sup>                                                  | 0.57   | 1.29 | 2.85 | 4.10 | 5.04 | 5.21  | 5.11  | 4.63  | 3.82  | 2.62 | 1.29  | 0.59 |                             |                                 |        |
| Ave Lowest ET <sub>act</sub>                                                       | mm/day |      |      |      |      |       |       |       |       |      |       |      | --                          |                                 |        |
| 15-Day Moving Average <sup>g</sup>                                                 | 0.27   | 0.62 | 1.60 | 2.59 | 3.27 | 3.65  | 4.18  | 3.53  | 2.58  | 1.57 | 0.60  | 0.26 |                             |                                 |        |
| 7-Day Moving Average <sup>h</sup>                                                  | 0.21   | 0.50 | 1.36 | 2.25 | 2.77 | 3.21  | 3.92  | 3.28  | 2.33  | 1.33 | 0.49  | 0.20 |                             |                                 |        |
| 3-Day Moving Average <sup>i</sup>                                                  | 0.15   | 0.39 | 1.13 | 1.90 | 2.28 | 2.70  | 3.44  | 2.87  | 2.00  | 1.12 | 0.40  | 0.13 |                             |                                 |        |
| Special normal distribution parameters for monthly, seasonal, and annual intervals |        |      |      |      |      |       |       |       |       |      |       |      |                             |                                 |        |
| Skew <sup>m</sup>                                                                  | 0.01   | 0.09 | 0.07 | 0.05 | 0.01 | -0.39 | -0.37 | -0.14 | -0.78 | 0.23 | -0.07 | 0.36 | -0.50                       | 0.00                            | -0.50  |
| Kurtosis <sup>n</sup>                                                              | 0.92   | 2.25 | 0.66 | 3.43 | 0.54 | 2.30  | 0.99  | 0.72  | 3.53  | 0.72 | 2.09  | 1.04 | 2.52                        | 0.00                            | 2.52   |

<sup>a</sup> Growing Season: This is usually the time from green up or planting in the spring to a killing frost or harvest in the fall. It is not applicable for entries without a growing season and will be blank.

<sup>b</sup> Nongrowing Season. This is usually the time from a killing frost or harvest in the fall to the of green up in the spring. It is not applicable for entries without a growing season.

<sup>c</sup> Mean of the average daily value for month

<sup>d</sup> Mean of the fourteen 15-day period averages contained in the month

<sup>e</sup> Mean of the twenty three 7-day period averages contained in the month

<sup>f</sup> Mean of the twenty seven 3-day period averages contained in the month

<sup>g</sup> Mean of the highest lowest 15-day period average in month

<sup>h</sup> Mean of the highest lowest 7-day period average in month

<sup>i</sup> Mean of the highest lowest 3-day period average in month

<sup>j</sup> This value represents the *mean value* for the parameter for the month over the 'normal' period of record. Generally, the 'normal' period is the last thirty years with data.

<sup>k</sup> This value represents the *standard deviation* for the parameter for the month over the 'normal' period.

<sup>l</sup> This value represents the *value* for the parameter that has a 20% chance of being exceeded that month during any particular year. Conversely, there is an 80% chance that the parameter value will be less than the *value* shown.

<sup>m</sup> This value represents the *value* for the parameter that has a 80% chance of being exceeded that month during any particular year. Conversely, there is an 20% chance that the parameter value will be less than the *value* shown.

<sup>n</sup> This value represents the *skewness (asymmetry) of the distribution of the parameter values* for the month (year) over the 'normal' period. A value near zero indicates that the distribution approximates a normal (Gaussian) and symmetrical distribution. A negative skew indicates that the parameter distribution has relatively few low values compared to high values. A positive skew indicates that the distribution has relatively few high values compared to the number of low values. A skew value near 1 indicates that the underlying distribution approximates a lognormal distribution.

<sup>o</sup> This value represents the *kurtosis* of the parameter value distribution for the month (year) over the 'normal' period. Kurtosis is a measurement of the height to width ratio of the probability distribution, or the *peakedness (slenderness)*. A normal (Gaussian) distribution has a kurtosis of 3. A high kurtosis distribution has a sharper peak and longer tails, while a low kurtosis distribution has a more rounded peak and shorter tails.

This work and report were prepared by the University of Idaho Research and Extension Center at Kimberly, Idaho under contract with the Idaho Department of Water Resources. Work was supported by funding from IDWR and the Idaho Agricultural Experiment Station and Idaho Engineering Experiment Station. The authors gratefully acknowledge the long-term evapotranspiration data collection and long-standing advice provided by Dr. James L. Wright, USDA-ARS Kimberly (ret.), the more than two decades of high quality agricultural weather data collection by the U.S. Bureau of Reclamation AgriMet system, and the very long-standing, routine data collection by the hundreds of cooperative weather station volunteers across the state who, for more than one-hundred years, have faithfully observed daily air temperature and precipitation.

The citation for the evapotranspiration data used from this site should be: Allen, Richard G. and Clarence W. Robison, 2012. *Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho: Supplement updating the Time Series through December 2008*, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho, Moscow, ID.

Questions regarding the data should be addressed to [Clarence W. Robison](#) or [Richard G. Allen](#), University of Idaho, Kimberly Research and Extension Center, 3793 North 3600 East, Kimberly, ID 83341. Telephone (208)-423-6610.

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ETIdaho web site powered by [Debian](#), [Apache](#), [Firebird DBMS](#), [Python](#) with matplotlib, and kinterbasdb.

## Consumptive Use Calculations

| Variable | Quantity | Description                                                                                |
|----------|----------|--------------------------------------------------------------------------------------------|
| a        | 1.93     | mm/day, peak mean actual evapotranspiration, November through March, Parma Climate Station |
| b        | 304.8    | convert mm/day to ft/day                                                                   |
| c        | 0.0063   | ft/day, evapotranspiration ( $c = a / b$ )                                                 |
| d        | 1.9835   | convert acre-feet per day to cfs                                                           |
| e        | 0.0032   | cfs, equivalent constant diversion rate of evapotranspiration ( $e = c / d$ )              |
| f        | 35.50    | acres, ponded area                                                                         |
| g        | 0.11     | cfs, equivalent constant diversion rate of evapotranspiration ( $g = e \times f$ )         |

**APPENDIX C**  
**IDWR memoranda and communication on consumptive use**

## MEMORANDUM

**Date:** September 01, 2005  
**To:** Water Right File 63-32067  
**From:** Shelley Keen *SK*  
**Re:** Nature of Proposed Use

---

This afternoon I spoke with Steve Lester about whether IDWR should require the use of water under Permit 63-32067 to be non-consumptive. We concluded that IDWR can approve consumptive uses of surface water from the proposed source at the proposed location without mitigation and that there might be a little consumption of water under the proposed use. Steve recommended that we include protections for downstream senior water right holders. We think the likelihood of injury to downstream right holders is very slight given that the proposed use is limited to the non-irrigation season and that there is really no place for the water to go but back into Sand Run Gulch Creek, but just to be certain, we included the approval condition stating that this right is subject to prior rights and a condition stating that IDWR can require installation of measuring devices and measuring and reporting in the future.

## MEMORANDUM

TO: File

FROM: Steve Lester 

DATE: August 25, 2005

RE: Conditions of Approval for Application No. 63-32067

---

The application originally proposed water from a creek and shallow ground water for existing ponds for a wildlife project outside of the irrigation season near the Boise River around Notus (surface water below Star). This evolved into the current application proposing water from the creek and existing ponds.

Watermaster Lee Sisco clarified the creek as tributary to the Snake River instead of the Boise River. That was my mistake during the filing of the application with Obendorf and his attorney, Dana Hofstetter. A more careful examination of topo maps confirmed Sisco's point (6/16/05 documents).

See database legal notice remarks and comments for an overview of this application. In my opinion, the application is approvable as filed. Amendment of the application prior to legal notice clarified details without expanding the project. Additional fees were not needed.

The creek name is confusing. Five topo quads cover the area upstream from the project to the mouth of the creek. The name on the topo closest to the creek P/Ds is Sand Run Gulch (long reach on quad W54). The name on quad X4 to the west is Sand Hollow Creek. The other three quads do not include a name for the creek. Sisco calls the creek Sand Hollow Drain. A query of Basin 63 records in Canyon County revealed 4 for Sand Run Gulch, 47 for Sand Hollow Creek and 13 for Sand Hollow Drain. I assumed the topo name nearest the project, and for the longest named reach of the stream on any of those quads, should be used. Let conditions of approval note the other names.

For some reason, I could not delete "Sand Run Gulch Creek tributary to Boise River" in the database. That remains to be done.

The application proposes up to 200 af of storage in existing ponds. Creek water will probably be routed through the ponds to some degree. New ponds are not proposed. It is possible although unlikely that additional storage capacity will be developed. The application is probably too vague on this point. It is conceivable that circumstances could exist in which pond water levels declined due to natural factors (drought etc.). Creek water could raise pond levels without adding or expanding impoundment structures. That

would be an example of storage developed under this proposal. It is hard to see the harm in allowing storage as requested provided it is properly conditioned in an approval. Pond water could be diverted for wildlife use, although that is probably unlikely (pumping costs).

The application proposes a non-consumptive use. Even if ponds and/or additional storage become part of this development, the proposed period of use assumes de minimus evaporative loss for the non-irrigation season. A vague return flow to the creek is proposed – the application map shows return flows at the end of the applicant's property. A condition of approval can reinforce the non-consumptive nature of the project.

Large diversion information was minimal in this case. A non-consumptive use of water diverted and returned to the source within the applicant's property should have little if any impact on other water users. An application attachment addressed the water supply. Finances and some other factors have little bearing on the proposal. Comment letters addressed local public interest factors (also abbreviated per SO directives in that arena).

#### Proposed Conditions of Approval

Standard conditions. Allow 5 years.

Measuring devices required for all diversions from the creek. Measuring devices required for return flow to the creek.

SCA approval might be required for return flow to the creek.

Remains subject to annual measurement and reporting (do not need to report now).

Storage is limited to replenishment at 8 existing ponds. Construction of new ponds or of any impoundment facilities at existing ponds is not authorized.

Non-consumptive use.

Use is for wildlife habitat during the non-irrigation season (see similar language in 63-11617).

Sand Run Gulch Creek is also known as Sand Hollow Creek and Sand Hollow Drain.



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

January 26, 2006

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

Tree Top Ranches L.P.  
C/O Scott L. Campbell Attorney  
101 S Capitol Blvd 10<sup>th</sup> Floor  
PO Box 829  
Boise ID 83701

RE: Permit to Appropriate Water #63-32067

Dear Mr. Campbell:

This letter is in response to your 1/10/06 letter addressing issues related to the Obendorf permit #63-32067. The complaint alleges that diversions from Sand Run Gulch Creek are in excess of 90 cfs flow rate and the creek bed is being dewatered to the detriment of wildlife/fish habitat. The letter requests the Department invoke the conditions of approval #5 and #7 that require the installation of measurement devices and a by-pass channel.

In reviewing the processing records of application #63-32067, the following comes forward:

- The applicant intended to divert water that was available from the creek, as there are no minimum stream flow restrictions. The flow rate was based on historical USGS creek flow records gauged several miles downstream.
- Evaporation losses and consumption are assumed de minimus during the non-irrigation season. Flow is routed back to the creek at the edge of the Obendorf property.
- State wide public notice given on June 2<sup>nd</sup> and 9<sup>th</sup>, 2005 yielded no protests.
- Comment letters to Idaho Fish & Game, Idaho Dept. of Environmental Quality, and Bureau of Reclamation produced no comments/concerns.

By your request, our office will continue to investigate the allegations and issues. However, we request the following additional information to compliment our investigation:

1. Your letter acknowledges there is no measurement device/control structure, and that it is impossible to definitely determine flow. How was it determined the diversion rate has frequently exceeded 90 cfs since November 2005?

Scott L. Campbell

Page 2.

2. Describe injury to your client or parties downstream by the diversion.

3. From review of the records, the dewatered creek distance (the last point of diversion to flow return into the creek) is approx.  $\frac{1}{4}$  to  $\frac{1}{2}$  mile Please provide our office with specific information on the current injury to fish, wildlife, and riparian habitat from the dewatering.

Once the additional information is received and our investigation/review is completed, our office will provide you notice of our findings.

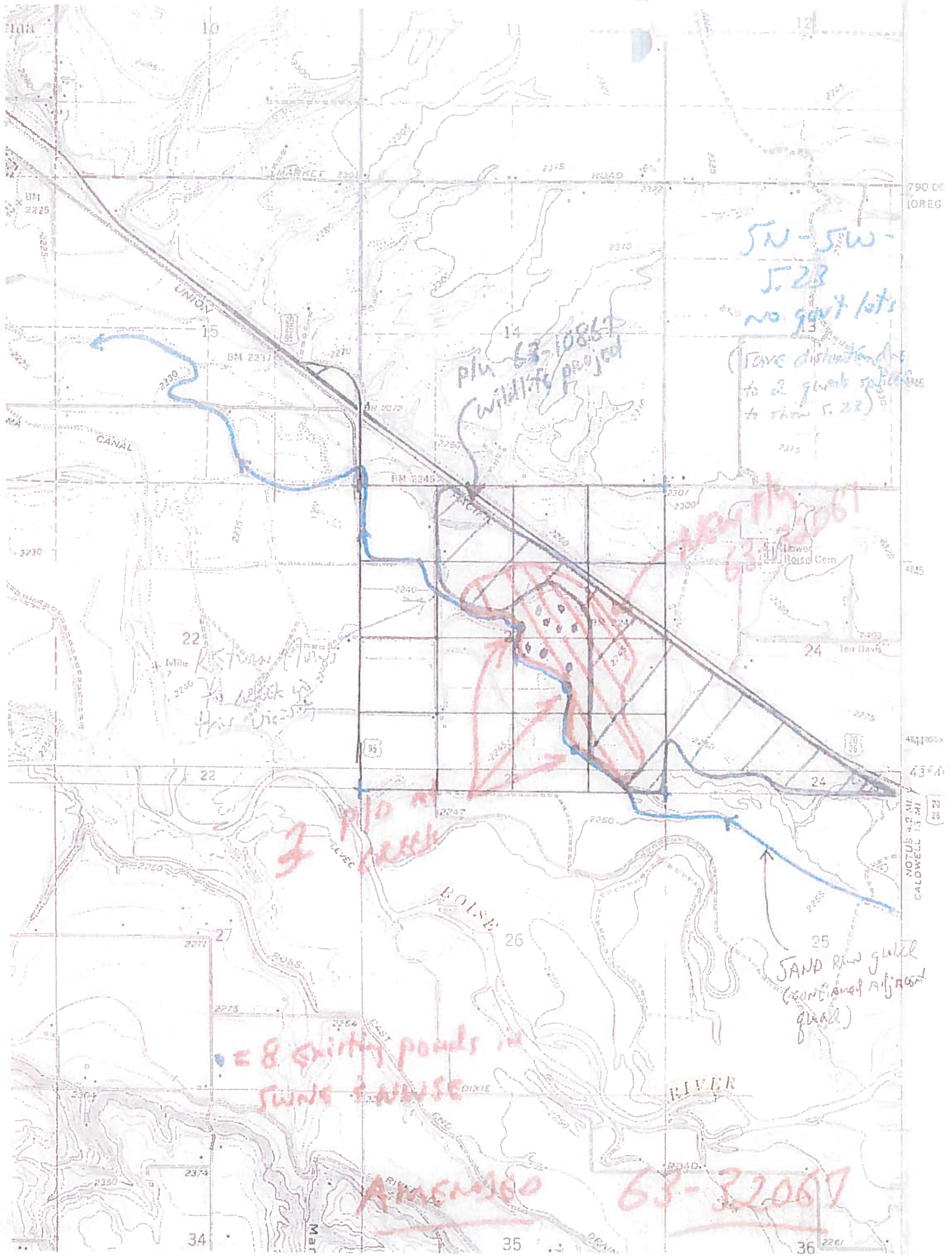
Should you have any questions, please contact me at the Western Regional Office, phone 334-2190.

Sincerely,

A handwritten signature in black ink, appearing to read "John Westra", written in a cursive style.

John Westra  
Western Regional Manager

Enclosure-Map  
cc: D. Hofstetter



5N-5W-  
5.23  
no govt lots

(Tone distribution due  
to 2 ground surface  
to show 5.23)

plu 63-10867  
wildlife project

North  
63-22067

Return (Tune)  
to black in  
this vicinity

2 pl of  
creek

25  
SAND PLOW gate  
(portional adjacent  
grade)

8 existing ponds in  
SW 1/4 of NW 1/4

Ames 63-32067

63-32067

**APPENDIX D**  
**IDFG stipulation and Parma Canal Use Agreement**

RECEIVED

AUG 22 2007

WATER RESOURCES  
WESTERN REGION

Scott L. Campbell, ISB No. 2251  
MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED  
101 S. Capitol Blvd., 10th Floor  
Post Office Box 829  
Boise, Idaho 83701  
Telephone (208) 345-2000  
Facsimile (208) 385-5384  
22567.2

Attorneys for Tree Top Ranches, LP

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

In The Matter of Amended Application for  
Permit No. 63-32462 In The Name Of Tree  
Top Ranches, LP

Water Right No. 63-23462

**STIPULATION FOR WITHDRAWAL OF  
PROTEST**

Tree Top Ranches, LP ("Tree Top"), through its counsel of record, and the Idaho Department of Fish and Game (the "Department"), through its counsel of record, hereby stipulate and agree as follows:

1. The Department hereby agrees to withdraw its protest against the above referenced Amended Application for Permit in exchange for Tree Top's consent to the Idaho Department of Water Resources, including the following conditions upon the Permit which is sought in this proceeding:

a. All quantities of water diverted from Sand Hollow Creek under this water right shall be returned to Sand Hollow Creek at the confluence of the Parma Canal and Sand Hollow Creek.

b. Tree Top shall install a measurement weir at the return flow discharge into Sand Hollow Creek from the Parma Canal which complies with Idaho Department of Water Resources standards.

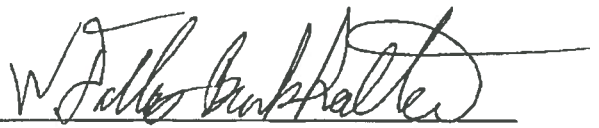
c. Tree Top shall install a measurement weir at the diversion point from Sand Hollow Creek which complies with the Idaho Department of Water Resources standards.

2. Tree Top also confirms that it has authority to use the Parma Canal for conveyance of discharge flows under this water right, as evidenced by the attached agreement between the Parma Canal Company and Tree Top, Exhibit A hereto.

3. The withdrawal of protest by the Department shall be effective upon issuance of an interim order by the Idaho Department of Water Resources accepting the terms of this Stipulation.

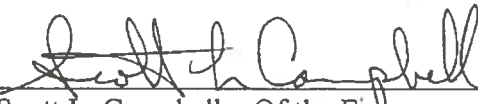
DATED this 21<sup>ST</sup> day of August, 2007,

IDAHO DEPARTMENT OF FISH & GAME

By   
Dallas Burkhalter  
Deputy Attorney General

DATED this 22<sup>nd</sup> day of August, 2007.

MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED

By   
Scott L. Campbell – Of the Firm  
Attorneys for Tree Top Ranches, LP

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Moffatt, Thomas, Barrett, Rock &  
Fields, Chartered  
101 S. Capitol Boulevard, 10th Floor  
Post Office Box 829  
Boise, Idaho 83701-0829

---

---

(Space Above For Recorder's Use)

### CANAL USE AGREEMENT

This Canal Use Agreement (the "Agreement") is entered into and made effective this 10 day of August, 2007, between TREE TOP RANCHES, LP ("Tree Top Ranches"), an Idaho limited partnership whose address is 101 S. Capitol Blvd. Suit 1801, Boise, Idaho 83702 and PARMA DITCH COMPANY, LIMITED ("Parma Ditch Company"), an Idaho corporation whose address is 27998 Wamsted Rd., Parma, Idaho 83660.

#### WITNESSETH:

WHEREAS, Tree Top Ranches owns real property located within portions of Sections 15, 16, 22, and 23, Township 5N, Range 5W, Boise Meridian, Canyon County, Idaho;

WHEREAS, Parma Ditch Company operates and maintains the Parma Canal, for purposes of delivering and removing irrigation water to and from its landowners;

WHEREAS, a significant portion of the Parma Canal is located on real property currently owned by Tree Top Ranches and located within Sections 15 and 22, Township 5N, Range 5W, Boise Meridian, Canyon County, Idaho;

WHEREAS, Tree Top Ranches has filed an application for Water Right No. 63-32462, seeking to divert water from the Sand Hollow Creek for the development of winter habitat for wildlife (primarily waterfowl), and which proposes to return such water flows to Sand Hollow Creek via the Parma Canal;

WHEREAS, Tree Top Ranches and Parma Ditch Company desire to document the conditions of Tree Top Ranches' use of the Parma Canal for such purposes as may be allowed under the conditions of Water Right No. 63-32462;

NOW, THEREFORE, in consideration of the mutual benefits to be received by Tree Top Ranches and Parma Ditch Company, and the promises, covenants, agreements, and conditions hereinafter set forth, the parties agree with one another as follows:

### AGREEMENTS:

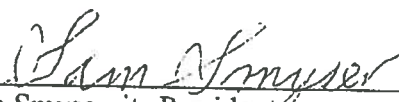
1. Parma Ditch Company hereby authorizes, agrees, and allows Tree Top Ranches to discharge its return flows under Water Right No. 63-32462 into the Parma Canal for transport and eventual discharge into the Sand Hollow Creek, subject to the terms and conditions of this Agreement.
2. Tree Top Ranches and Parma Ditch Company shall continue to comply with the terms of all other applicable easements and agreements with regard to the existence, operation and maintenance of the Parma Canal.
3. Parma Ditch Company understands and agrees that any quantities of water diverted from Sand Hollow Creek by Tree Top Ranches under the terms and conditions of Water Right No. 63-32462 must be returned to Sand Hollow Creek and may not be used by downstream properties served by the Parma Canal.
4. The promises, covenants, conditions, and agreements herein contained shall be binding on each of the parties hereto and on all parties and all persons claiming under them or any of them; and the rights and obligations hereof shall inure to the benefit of each of the parties hereto and their respective successors and assigns.
5. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter of this Agreement. Amendments to this Agreement shall be made only by written instrument executed by each of the parties hereto.
6. The validity, meaning, and effect of this Agreement shall be determined in accordance with the laws of the State of Idaho.
7. This Agreement shall be recorded upon execution in the offices of the county recorder of Canyon County, Idaho.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first set forth above.

TREE TOP RANCHES, LP  
an Idaho limited partnership

by   
LDW, Inc., its Partner  
by Larry D. Williams,  
president of LDW, Inc.

PARMA DITCH COMPANY, LIMITED  
an Idaho corporation

by   
Sam Smyser, its President

STATE OF IDAHO )  
 ) ss.  
County of Ada )

On this 10 day of August, 2007, before me, the undersigned Notary Public in and for said state, personally appeared **LARRY D. WILLIAMS**, known or identified to me to be the President of **LDW, INC.**, which is the Partner of the limited partnership, **TREE TOP RANCHES, LP**, and who subscribed said company name to the foregoing instrument and acknowledged to me that he executed the same in said company name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

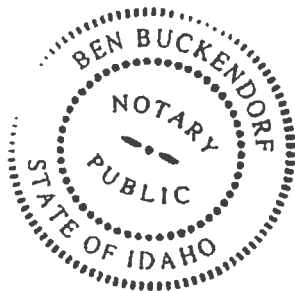


Ben Buckendorf  
NOTARY PUBLIC FOR Larry Williams  
Residing at Boise  
My Commission Expires 4/14/2010

STATE OF IDAHO )  
 ) ss.  
County of Ada )

On this 10 day of August, 2007, before me, the undersigned Notary Public in and for said state, personally appeared **SAM SMYSER** known or identified to me to be the president of **PARMA DITCH COMPANY, LIMITED**, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Ben Buckendorf  
NOTARY PUBLIC FOR IDAHO  
Residing at Boise  
My Commission Expires 4/14/2010

**APPENDIX E**  
**Andrews Ditch Agreement**

## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made as of the 11<sup>th</sup> day of February, 2011, by, between and among Tree Top Ranches L.P. ("Tree Top"), Greg and Ann Obendorf ("Obendorf"), The Tina Iest Family L.L.L.P. ("Iest"), the Hauck Family Revocable Trust ("Hauck"), and THEDRAKE LLC, successor-in-interest to the Hauck Family Revocable Trust.

### I. PURPOSE

This Agreement is made as a compromise by, between and among the parties for the complete and final settlement of their respective claims, differences, and causes of action in the following water right subcases now pending in the Snake River Basin Adjudication ("SRBA") and any SRBA subcases that may arise relating to the same or following root (or parent) water rights:

63-00127A, 63-00128A, 63-00129A, 63-00130A, 63-00131A, 63-00127B, 63-00128B, 63-00129B, 63-00130B, 63-00131B, 63-00178B, 63-00178C, 63-21530, 63-00160, 63-03201, and 63-9744.

Each of the above-referenced root water rights (*i.e.*, 63-00127, 63-00128, 63-00129, 63-00130, 63-00131, 63-00160 and 63-00178), with the exceptions of water right nos. 63-21530,<sup>1</sup> 63-03201 and 63-09744, are Boise River, Stewart Decree-based water rights diverted through a common conveyance known as the Andrews Ditch. Each of the parties to this Agreement now owns portions of the underlying places of use originally decreed for the above-referenced water rights, and the parties have agreed to the apportionment of those water rights between and among them as set forth herein.

In addition to addressing the above-referenced SRBA subcases, this Agreement is also made as a compromise between the parties for the complete and final settlement of any respective claims, differences, and causes of action regarding the following "winter" wildlife water right permits or permit applications:

63-11617, 63-32066, 63-32067, 63-32459, 63-32460, 63-32466, 63-32462, 63-32467, 63-32911, and 63-32912.

---

<sup>1</sup> Water Right No. 63-21530 is owned by Tree Top and is used on its Parma Ranch in conjunction with the other irrigation rights referenced herein. However, Water Right No. 63-21530 is a Sand Hollow Creek-sourced water right, not a Boise River-sourced water right diverted through the Andrews Ditch. Water Right No. 63-21530 was included in the trial setting of the Andrews Ditch subcases for administrative reasons. Consequently, this Agreement also resolves the parties' respective claims, differences, and causes of action with respect to SRBA Subcase No. 63-21530 and Obendorf's SRBA Subcase Nos. 63-03201 and 63-09744.

## **II. TERMS OF SETTLEMENT**

### **A. Winter Wildlife Water Right Permits**

The parties hereto hereby expressly acknowledge and agree as follows:

1. Tree Top shall request and direct the Idaho Department of Water Resources to revoke and cancel Permit No. 63-32466 (the Sand Hollow Creek diversion just off of Iest Road) within thirty (30) days of the full and complete execution of the SRBA Standard Form 5 documents for the irrigation rights described below.
2. Tree Top agrees that its winter wildlife water use under Water Right Nos. 63-32462, 63-32467, 63-32911, and 63-32912 shall be returned to the respective source from which the water was initially diverted (*i.e.*, winter water diverted from the Boise River will be returned to the Boise River, and winter water diverted from Sand Hollow Creek will be returned to Sand Hollow Creek). Said return flow condition is already contained within Permit Nos. 63-32466; 63-32467, 63-32911, and 63-32912. Tree Top shall request and direct that the same condition be included within Permit No. 63-32462 (which currently exists as a pending Application for Permit), and that the condition carry over into all Licenses issued under the above-referenced wildlife water rights.
3. Obendorf shall withdraw all pending petitions, protests, and/or objections of any kind whatsoever to Tree Top Permit Nos. 63-32462 (Sand Hollow Creek diversion at Highway 95), 63-32467 (Boise River diversion through Andrews Ditch), 63-32911 (Boise River diversion via pump), and 63-32912 (Sand Hollow Creek diversion via pump). Obendorf shall withdraw all said petitions, protests, and/or objections within thirty (30) days of the full and complete execution of the SRBA Standard Form 5 documents for the irrigation rights described below.
4. Tree Top shall not file any petitions, protests, and/or objections of any kind to any of Permit Nos. 63-11617, 63-32066, or 63-32067 provided that the owners of those permits do not seek material or substantial amendments to the existing permits. Further, Tree Top shall withdraw all pending petitions, protests, and/or objections of any kind whatsoever to G.O. Investments, LLC Applications for Permit Nos. 63-32459 and 63-32460. Tree Top shall withdraw all said petitions, protests, and/or objections within thirty (30) days of the full and complete execution of the SRBA Standard Form 5 documents for the irrigation rights described below.

### **B. Irrigation Water Rights**

The parties hereto hereby expressly acknowledge and agree to execute SRBA Standard Form 5 settlement documents for the identified irrigation water rights based on the following:

**1. 63-00127 through 63-00131**

The Stewart Decree decreed a total of 750 inches (or 15.0 cfs) for these water rights. Tree Top and Obendorf own the lands constituting the historic, decreed place of use of these water rights, and hereby agree to apportion these water rights among them as follows:

63-00127

Tree Top: 2.89 cfs

Obendorf: 0.41 cfs

63-00128

Tree Top: 5.28 cfs

Obendorf: 0.72 cfs

63-00129

Tree Top: 1.14 cfs

Obendorf: 0.16 cfs

63-00130

Tree Top: 0.79 cfs

Obendorf: 0.11 cfs

63-00131

Tree Top: 3.08 cfs

Obendorf: 0.42 cfs

In sum, under these water rights, Tree Top will be decreed a total of 13.18 cfs and Obendorf will be decreed a total of 1.82 cfs.

**2. 63-00178**

The Stewart Decree decreed a total of 425 inches (or 8.5 cfs) for this water right. Tree Top, Obendorf, Iest, and Hauck own the lands constituting the historic, decreed place of use of this water right, and hereby agree to apportion this water right among them as follows:

Tree Top: 0.42 cfs

Obendorf: 0.54 cfs

Iest: 7.33 cfs

Hauck: 0.21 cfs.

**3. 63-00160**

The Stewart Decree decreed a total of 350 inches (or 7.0 cfs) for this water right. Obendorf and Johnson Feedlot ("Johnson") own the lands constituting the historic, decreed place of use of this water right. At present, Obendorf has claimed the entirety of water right no. 63-00160 (7.0 cfs) in the SRBA through a late claim granted by the SRBA Court on May 20, 2009. Due to the proportionate land ownership pattern of the historic, decreed place of use for this water right, and

Johnson's pending late claim for 3.8 cfs of the total available 7.0 cfs, Obendorf agrees to amend his pending late claim to claim no more than a 3.2 cfs proportionate share of water right no. 63-00160. Obendorf agrees to file the necessary papers amending his claim from 7.0 cfs to 3.2 cfs within ninety (90) days of the parties' full and complete execution of this Agreement. Obendorf further agrees to divert no more than 2.5 cfs of water right 63-00160 from Andrews Ditch, thereby leaving the remaining (up to) 0.7 cfs within the Andrews Ditch for communal carriage purposes. If the Idaho Department of Water Resources ("IDWR" or "Department") recommends a quantity of 2.5 cfs or less to Obendorf under this claim, the parties agree that Obendorf may divert the entirety of the right ultimately recommended from the ditch. The parties further agree not to object to, protest, or otherwise hinder the Obendorf amended claim for 63-00160 (3.2 cfs).

#### **4. Season of Use**

Each of the parties' respective Andrews Ditch water rights shall have the same season of use remark for uniformity purposes. To this end, the parties agree that each Andrews Ditch water right shall contain the following Season of Use remark, which has been previously approved by Boise Project Board of Control and the United States Bureau of Reclamation:

"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, NE 1/4 of the SE 1/4 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 Lake Lowell, Lucky Peak, Arrowrock, or Anderson Ranch Reservoirs."

#### **5. 63-03201, 63-09744 and 63-21530**

Tree Top shall withdraw its pending objections, and shall not file any further petitions, protests, responses and/or objections of any kind whatsoever in SRBA Subcase Nos. 63-03201 and 63-09744. Obendorf shall withdraw their pending objections and/or responses, and shall not file any further petitions, protests, responses and/or objections of any kind whatsoever in SRBA Subcase No. 63-21530. Tree Top and Obendorf agree to withdraw their respective pending objections/responses within ninety (90) days of the execution of this Agreement.

#### **C. The Hauck Transfer of Water Right Permit No. 63-32176**

Hauck is the owner of Permit No. 63-32176. The permit allows Hauck to divert 0.15 cfs from a pond on the Hauck property for irrigation purposes. The permit provides that the pond is tributary to the Boise River. Hauck is considering submitting an Application for Transfer of a Water Right with the IDWR for purposes of transferring and/or adding a point of diversion to Permit No. 63-32176 from the pond on the Hauck property to the Boise River for diversion into the Andrews Ditch. Hauck is considering this transfer in order to facilitate gravity-based irrigation of the Hauck property from Andrews Ditch. The parties agree not to object to, protest,

or otherwise hinder the proposed Hauck transfer application described herein should Hauck choose to pursue the administrative transfer.

**D. Additional Beneficial Use Claims**

Upon the investigation of the parties, it appears that Andrews Ditch has historically diverted and conveyed up to 40 cfs from the Boise River for irrigation by the Andrews Ditch water users. This ditch capacity exceeds the quantity of water historically decreed by the Stewart Decree under water right nos. 63-00127 (3.3 cfs), 63-00128 (6.0 cfs), 63-00129 (1.3 cfs), 63-00130 (0.9 cfs), 63-00131 (3.5 cfs), 63-00160 (3.2 cfs), and 63-00178 (8.5 cfs) by 13.3 cfs. In order to promote and preserve the historic operations of the Andrews Ditch, the parties hereto agree to file additional beneficial use water right claims in the SRBA with claimed priorities no earlier than, January 19, 1906, one day after issuance of the Stewart Decree, to the remaining 13.3 cfs based upon their respective proportionate shares of the Stewart Decree water rights. Thus, the parties shall submit late SRBA beneficial use irrigation water right claims for water diverted from the Andrews Ditch to the remaining 13.3 cfs in the following respective proportions/quantities:

Tree Top: 51% (or 6.78 cfs)  
Obendorf: 21% (or 2.79 cfs)  
Iest: 27% (or 3.59 cfs)  
Hauck: 1% (or 0.14 cfs).

The above-referenced percentages are predicated upon the parties' collective assumption that the Department will ultimately recommend the full 3.2 cfs to Obendorf under claim number 63-00160. The parties agree to adjust these percentages, if necessary, to conform to the quantity of water ultimately recommended by the Department under claim number 63-160. The parties shall not oppose each others' late SRBA beneficial use water right claims complying with the terms of this Section and shall mutually cooperate in obtaining IDWR and SRBA Court approval for such claims.

**E. Additional Terms**

1. This Agreement represents the full and final resolution of the facts, circumstances, and claims of the parties hereto regarding the matters discussed herein.
2. The parties hereby agree to execute and file with the SRBA Court and the IDWR any and all documents reasonably necessary and incidental to this Agreement in order to fulfill the agreements and obligations set forth herein. This includes, but is not limited to, the parties filing express notices withdrawing Objections and Responses now pending in the SRBA subcases identified herein. This Agreement is contingent upon IDWR approval, complete execution of the SRBA Standard Form 5s provided for herein, the SRBA Court's entry of Partial Decrees in substantial conformance herewith, and IDWR approval of the permit amendments provided for herein. If such IDWR and SRBA Court approvals are not obtained, the parties hereto may reinstate their respective Claims, Objections, and Responses in the SRBA, and their respective wildlife water permit protests, petitions and objections.

3. The parties agree and acknowledge that each will bear their own attorney fees and costs in these matters.
4. The parties to this Agreement respectively represent and warrant that they have the sole right and exclusive authority to execute this Agreement.
5. None of the parties to this Agreement, nor any other person or entity, may orally or by conduct modify, delete, vary or contradict the terms and/or conditions of this Agreement or this Section. This Agreement may be modified only by a written agreement signed by each of the named parties to this Agreement.
6. This Agreement shall be binding upon and inure to the benefit of the parties and their respective legal representatives, heirs, successors, and assigns.
7. This Agreement is entered into in the State of Idaho and shall be construed and interpreted in accordance with its laws.
8. The invalidity or unenforceability of any provision herein, or portion thereof, shall in no way affect the enforceability of the remaining provisions of this Agreement, which remaining provisions shall remain in full force and effect as if this Agreement had been executed with the invalid portion(s) thereof eliminated.
9. The parties declare and represent that no promise, inducement, or agreement not contained herein has been made, that this Agreement contains the entire agreement between the parties hereto, and that the terms of this Agreement are contractual and not merely recitals. In deciding to enter into this Agreement, the parties have had the opportunity to consult with their legal counsel of choice, have done so, and their respective counsel have fully explained the terms of this Agreement. The terms of this Agreement have been completely read by the parties, and the terms are understood and voluntarily accepted.

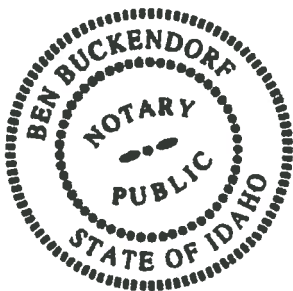
[Signature and Notary Pages Following]

  
\_\_\_\_\_  
Tree Top Ranches L.P.  
By: LDW, Inc., Its General Partner  
Larry D. Williams, President

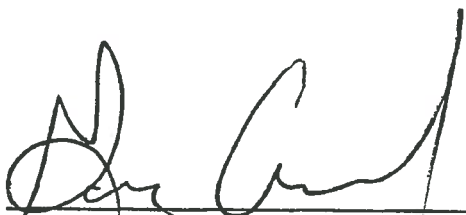
STATE OF IDAHO    )  
                              ) ss.  
County of Ada        )

On this 25 day of January, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Larry D. Williams, known or identified to me to be the President of LDW, Inc., an Idaho corporation which is the General Partner of Tree Top Ranches L.P., an Idaho limited partnership, and the General Partner who subscribed said limited partnership name to the foregoing instrument, and acknowledged to me that he executed the foregoing instrument on behalf of said corporation, and that such corporation executed the same in said limited partnership's name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



  
\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing at Boise  
My Commission Expires 3/30/2016

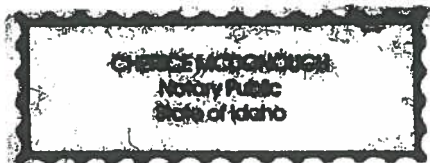
  
Greg Obendorf  
Personally and for the Community

  
Ann Obendorf  
Personally and for the Community

STATE OF IDAHO )  
 ) ss.  
County of Canyon )

On this 18<sup>th</sup> day of January, 2011, before me, the undersigned, a Notary Public, personally appeared **GREG OBENDORF**, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

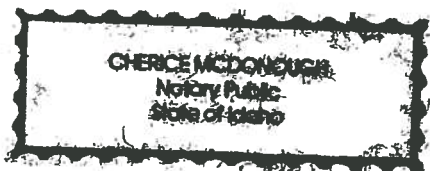


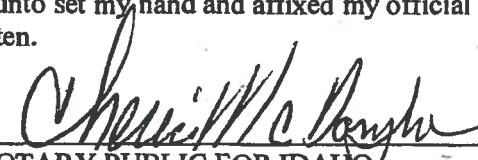
  
NOTARY PUBLIC FOR IDAHO  
Residing at Parma  
My Commission Expires 12/02/2011

STATE OF IDAHO )  
 ) ss.  
County of Canyon )

On this 18<sup>th</sup> day of January, 2011, before me, the undersigned, a Notary Public, personally appeared **ANN OBENDORF**, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



  
NOTARY PUBLIC FOR IDAHO  
Residing at Parma  
My Commission Expires 12/02/2011

Helen C. Tidwell  
The Iest Family L.L.L.P.  
By: Helen C. Tidwell, General Partner

STATE OF IDAHO                    )  
                                                  ) ss.  
County of ada                    )

On this 14 day of January, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Helen C. Tidwell, known or identified to me to be the General Partner of The Tina Iest Family L.L.L.P., an Idaho limited liability limited partnership, and the General Partner who subscribed said limited liability limited partnership name to the foregoing instrument, and acknowledged to me that she executed the same in said limited liability limited partnership's name

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



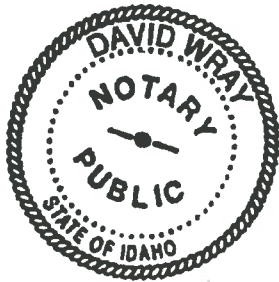
Tonya Smith  
NOTARY PUBLIC FOR IDAHO  
Residing at Meridian Idaho  
My Commission Expires 4-14-2011

John Hauck TTEE  
Hauck Family Revocable Trust  
John Hauck, Trustee

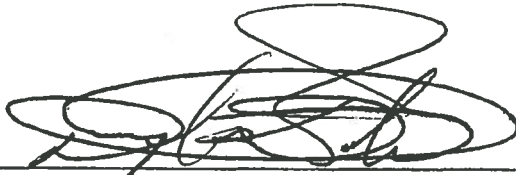
STATE OF IDAHO )  
County of ADA ) ss.

On this 8<sup>th</sup> day of Feb, 2011, before me, the undersigned, a Notary Public, personally appeared JOHN HAUCK, known or identified to me to be the person whose name is subscribed to the within instrument as the Trustee of the Hauck Family Revocable Trust and acknowledged to me that he executed the same as such Trustee of the Hauck Family Revocable Trust.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



David Wray  
NOTARY PUBLIC FOR IDAHO  
Residing at Boise  
My Commission Expires 12/10/13

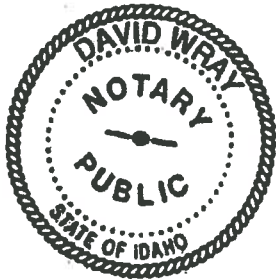


THEDRAKE LLC, successor-in-interest to  
the Hauck Family Revocable Trust  
John Hauck, Trustee  
By: Douglas K. Bates, Manager of BID, LLC, the  
managing entity of THEDRAKE LLC

STATE OF IDAHO                    )  
County of ADA                    ) ss.

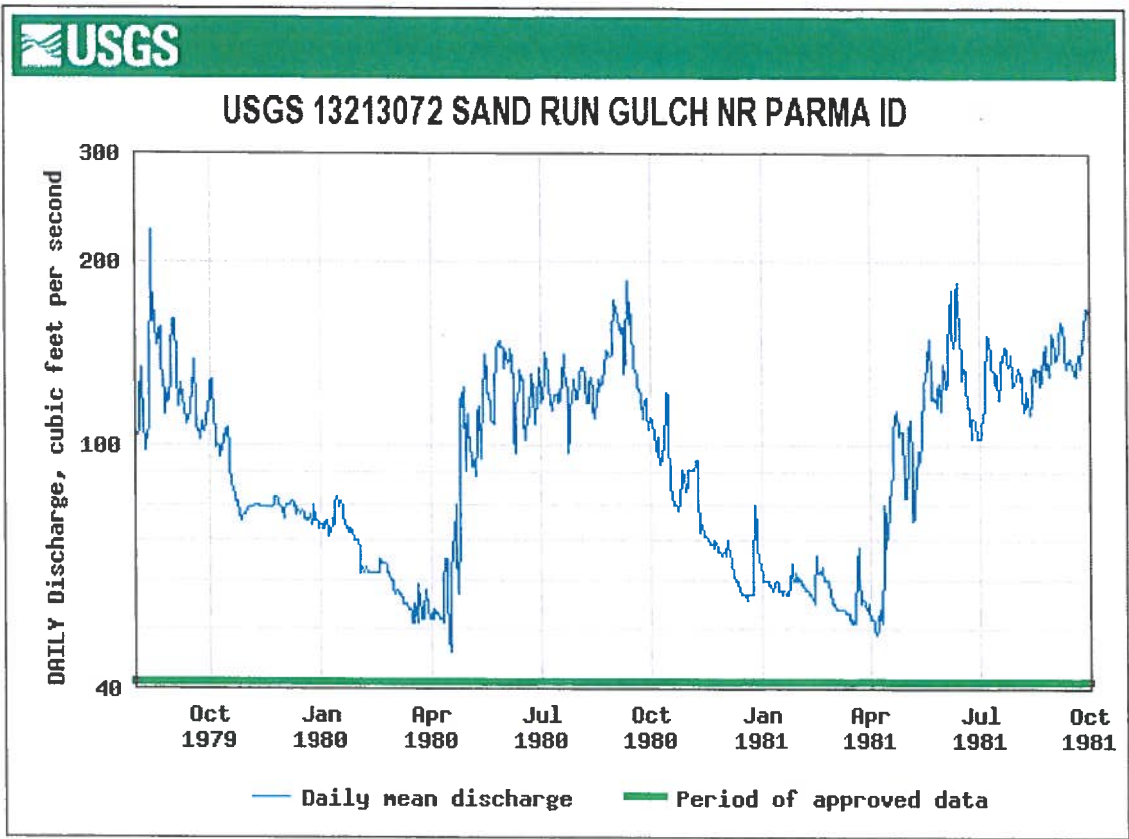
On this 8<sup>th</sup> day of Feb, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Douglas K. Bates, known or identified to me to be the Manager of BID, LLC, an Idaho limited liability company which is the Manager of THEDRAKE LLC, an Idaho limited liability company, and the Manager who subscribed THEDRAKE LLC's name to the foregoing instrument, and acknowledged to me that he executed the foregoing instrument on behalf of BID, LLC, and that BID, LLC executed the same in THEDRAKE LLC's name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



David Wray  
NOTARY PUBLIC FOR IDAHO  
Residing at Boise ID  
My Commission Expires 12/10/13

**APPENDIX F**  
**USGS Stream Flow Data**





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## National Water Information System: Web Interface

[USGS Water Resources](#)

Data Category:  Geographic Area:

[Click for News Bulletins](#)

[USGS Surface-Water Monthly Statistics for Idaho](#)

[Click for state-specific text](#)

The statistics generated from this site are based on approved daily-mean data and may not match those published by the USGS in official publications. The user is responsible for assessment and use of statistics from this site. For more details on why the statistics may not match, [click here](#).

### USGS 13213072 SAND RUN GULCH NR PARMA ID

Available data for this site

|                                                                                                                                           |                                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| Canyon County, Idaho<br>Hydrologic Unit Code 17050114<br>Latitude 43°47'59", Longitude 116°58'29" NAD27<br>Drainage area 3.6 square miles | <b>Output formats</b><br><a href="#">HTML table of all data</a><br><a href="#">Tab-separated data</a><br><a href="#">Reselect output format</a> |
|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|

| 00060, Discharge, cubic feet per second,                         |                                                                      |      |      |      |       |       |       |       |       |      |      |      |
|------------------------------------------------------------------|----------------------------------------------------------------------|------|------|------|-------|-------|-------|-------|-------|------|------|------|
| YEAR                                                             | Monthly mean in ft3/s (Calculation Period: 1979-08-01 -> 1981-09-30) |      |      |      |       |       |       |       |       |      |      |      |
|                                                                  | Jan                                                                  | Feb  | Mar  | Apr  | May   | Jun   | Jul   | Aug   | Sep   | Oct  | Nov  | Dec  |
| 1979                                                             |                                                                      |      |      |      |       |       |       | 133.0 | 118.6 | 93.6 | 79.3 | 77.2 |
| 1980                                                             | 74.2                                                                 | 62.3 | 54.6 | 69.5 | 117.6 | 122.7 | 122.1 | 129.7 | 140.3 | 94.6 | 75.8 | 62.0 |
| 1981                                                             | 59.2                                                                 | 59.0 | 54.6 | 78.2 | 110.7 | 133.9 | 130.7 | 129.7 | 144.9 |      |      |      |
| Mean of monthly Discharge                                        | 67                                                                   | 61   | 55   | 74   | 114   | 128   | 126   | 131   | 135   | 94   | 78   | 70   |
| ** No Incomplete data have been used for statistical calculation |                                                                      |      |      |      |       |       |       |       |       |      |      |      |

\*\* No Incomplete data have been used for statistical calculation

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Title: Surface Water data for Idaho: USGS Surface-Water Monthly Statistics

URL: <http://waterdata.usgs.gov/id/nwis/monthly?>

Page Contact Information: [Idaho Water Data Support Team](#)

Page Last Modified: 2013-09-24 12:37:35 EDT

0:35 0:35 vaww01



**APPENDIX G**  
**Steve Lester letter on sufficiency of source**



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

July 20, 2006

JAMES E. RISCH  
Governor

KARL J. DREHER  
Director

TREE TOP RANCHES LP  
C/O SCOTT CAMPBELL  
MOFFATT THOMAS ET AL  
PO BOX 829  
BOISE ID 83701-0829

Re: Site Visit for Creek Measurements

Dear Mr. Campbell:

Thank you for your efforts in the recent field visit to your client's property regarding the applications for wildlife projects. The visit was very helpful.

One beneficial outcome of that visit was a determination that additional fieldwork to estimate the carrying capacity of the creek at the proposed diversion points for Mr. Williams will not be necessary. It is obvious that the creek has the capacity for the proposed rates of flow on the Williams property.

I will continue with my effort to send a questionnaire to all the wildlife project applicants as soon as I can. Meanwhile, please let me know if you need further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Lester'.

Steve Lester  
Water Rights Supervisor

**APPENDIX H**  
**Photos related to Applications for Permit 63-32459, 63-32460,**  
**63-33507 & 63-33508**



GPS points correlated with photos.



**21:** Rubble check structure. Photo taken on left bank of left side channel facing across check structure to McConnell Island.



**21:** Channel below check structure is affected by heavy vegetation growth.



**21:** Boise River side channel above check structure with Baldrige-Meadows Drain entering from photo-right.



**22:** Check structure in Baldrige-Meadows Drain. Drain flow is from photo right to left. Headgates supply Lower Haas Ditch.



**22:** Facing upstream in Baldrige-Meadows Drain.



**22:** Facing downstream towards Boise River.



**23:** Upper Haas Ditch diversion headgate from Baldrige-Meadows Drain.