

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

RIGHT NUMBER: 63-128C

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

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 5.280 CFS

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

PRIORITY DATE: 06/01/1865

POINT OF DIVERSION:

T05N R05W S25 SWSE Lot 2 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	5.280 CFS
Diversion of irrigation water under this water right prior to April 1 and after October 31 shall occur only when the natural flow of the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE¼ of the SE¼ of the SE¼, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, provided that any such use of this water right prior to April 1 and after October 31 shall not interfere with storage of water under water rights for Lucky Peak, Lake Lowell, Arrowrock, or Anderson Ranch Reservoirs.		

SF5 Right No. 63-128C

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S22	SWNE	36.00	T05N R05W S22	SENE	0.70
T05N R05W S22	SENE	21.00	T05N R05W S22	NESW	23.00
T05N R05W S22 Lot 2	SESE	9.30	T05N R05W S22	NESE	26.00
T05N R05W S22	NWSE	34.00	T05N R05W S22 Lot 1	SWSE	22.00
T05N R05W S22	SESE	27.00	T05N R05W S23	NWSW	18.00
T05N R05W S27 Lot 5	NENE	0.30	T05N R05W S27	NWNE	7.00
T05N R05W S27	NENW	6.00			

230.3 ACRES TOTAL

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

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

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

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

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

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

Shurte, Jan

From: Andy Waldera [AJW@moffatt.com]
Sent: Wednesday, July 10, 2013 8:25 AM
To: Carter, Meghan; Shurte, Jan; Dana Hofstetter
Cc: Andrea.Courtney@deq.idaho.gov; Fritschle, Carter; Cooley-Denney, Suzy
Subject: RE: Draft SF5s for review

Meghan and Jan,

Though I spoke to Jan by phone about the Tree Top SF5s previously, it would probably help if I reduced my observations to writing. So, here it goes...

63-127B: This right was split into C and D splits. The name and address of the original B split owner should be:

Tree Top Ranches LP
PO Box 8126
Boise, Idaho 83707.

This name and address change applies to all of the Tree Top rights, including the splits decreed disallowed because of the further splits of those rights.

63-127C: I find no errors on the recommendation except for the owner address issue discussed above.

63-128B: Please fix the Tree Top address as discussed above.

63-128C: I find no errors on the recommendation except for the owner address issue discussed above.

63-129B: Please fix the Tree Top address as discussed above.

63-129C: I find no errors on the recommendation except for the owner address issue discussed above.

63-130B: Please fix the Tree Top address as discussed above.

63-130C: I find no errors on the recommendation except for the owner address issue discussed above.

63-131B: Please fix the Tree Top address as discussed above.

63-131C: I find no errors on the recommendation except for the owner address issue discussed above.

63-178B: I find no errors on the recommendation except for: (1) the owner address issue discussed above; and (2) a missing comma in the POU combined use limitation remark. The comma is missing between "63-131C" and "63-178B."

63-178C: This is the lest split of 178. I want to make sure the lest POU in the NWSW QQ of Section 23, 5N, 5W does not overlap with that of Tree Top's in the same QQ on IDWR's mapping of the parties' respective rights. Tree Top owns the W1/2 of the NWSW and lest owns the E1/2 of the same QQ. I doubt there is an overlap given the parties' respective irrigated acres in the NWSW (18.0 for Tree Top and 15.2 for lest) because each acreage total is less than 20 acres (again Tree Top owns the west 20 acres and lest owns the east 20 acres), but that overlap issue cannot be determined from the described POU for the QQ alone. Jan, please double check IDWR's mapping to ensure that the lest irrigated acres are located on the east 20 acres of the NWSW QQ. Thanks.

63-21530: I find no errors on the recommendation except for the owner address issue discussed above.

63-33498: Like 178C above, this water right is owned by lest. The same POU concern discussed in the context of 178C applies to this water right as well.

63-33590: I find no errors on the recommendation except for the owner address issue discussed above.

If you or Jan has any questions, please feel free to contact me directly at 385-5418.

Thanks guys.

--Andy

From: Carter, Meghan [mailto:Meghan.Carter@idwr.idaho.gov]
Sent: Monday, July 08, 2013 2:27 PM
To: Shurte, Jan; Dana Hofstetter; Andy Waldera
Cc: Andrea.Courtney@deq.idaho.gov; Fritschle, Carter; Cooley-Denney, Suzy
Subject: RE: Draft SF5s for review

Dana & Andy,

I'd like to get these SF5s finalized and have final versions circulating. Would you please get us any further comments by July 12th. We will then send out the final versions no later than July 26th for signatures.

Thanks,

Meghan

Meghan Carter
Deputy Attorney General
Natural Resources Division
Water Resources Section
322 E. Front Street, P.O. Box 83720
Boise, Idaho 83720-0098
Tel: (208) 287-4810 Fax: (208) 287-6700
meghan.carter@idwr.idaho.gov

From: Shurte, Jan
Sent: Wednesday, June 05, 2013 2:07 PM
To: Dana Hofstetter; Andy Waldera
Cc: Carter, Meghan; Andrea.Courtney@deq.idaho.gov; Fritschle, Carter
Subject: Draft SF5s for review

Dana and Andy,

Per my agreement with Dana I am sending the 34 draft SF5s for Tree Top Ranches LP, Obendorf, TheDrake LLC and The Tina lest Family LLLP for review. I am sending Andy a copy also because I would like both of your reviews so all can be discussed and these SF5s completed.

Dana, you might notice that 63-178C is only in the name of Tina lest. I don't know if it is supposed to be in the name of The Tina lest Family LLLP and would need a change of ownership to put whichever name is correct on the right.

I'm ready for questions and problems.

Thanks,

Jan

NOTICE: This e-mail, including attachments, constitutes a confidential attorney-client or other confidential communication. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (208) 345-2000, so that our address record can be corrected. Thank you.

NOTICE: To comply with certain U.S. Treasury regulations, we inform you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this e-mail, including attachments, is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any penalties that may be imposed by the Internal Revenue Service.

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

RIGHT NUMBER: 63-128C

NAME AND ADDRESS: TREE TOP RANCHES LP
C/O MOFFATT THOMAS ET AL
SCOTT CAMPBELL &/OR ANDREW WALDERA
PO BOX 829
BOISE ID 83701-0829

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 5.280 CFS

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

PRIORITY DATE: 06/01/1865

POINT OF DIVERSION:

T05N R05W S25 SWSE Lot 2 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	5.280 CFS
Diversion of irrigation water under this water right prior to April 1 and after October 31 shall occur only when the natural flow of the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE¼ of the SE¼ of the SE¼, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, provided that any such use of this water right prior to April 1 and after October 31 shall not interfere with storage of water under water rights for Lucky Peak, Lake Lowell, Arrowrock, or Anderson Ranch Reservoirs.		

SF5 Right No. 63-128C

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S22	SWNE	36.00	T05N R05W S22	SENE	0.70
T05N R05W S22	SENE	21.00	T05N R05W S22	NESW	23.00
T05N R05W S22 Lot 2	SESW	9.30	T05N R05W S22	NESE	26.00
T05N R05W S22	NWSE	34.00	T05N R05W S22 Lot 1	SWSE	22.00
T05N R05W S22	SESE	27.00	T05N R05W S23	NWSW	18.00
T05N R05W S27 Lot 5	NENE	0.30	T05N R05W S27	NWNE	7.00
T05N R05W S27	NENW	6.00			

230.3 ACRES TOTAL

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

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

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

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

This right is a split of Right No. 63-128B per settlement agreement dated 2-11-11.

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

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-128C V1

WATER RIGHT NUMBER: 63-128C V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	TREE TOP RANCHES LP C/O MOFFATT THOMAS ET AL SCOTT CAMPBELL &/OR ANDREW WALDERA PO BOX 829 BOISE, ID 83701-0829 (208) 345-2000

Priority Date: 06/01/1865

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BOISE RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	5.280 CFS	
	<u>Total Diversion:</u>	5.280 CFS	

Location of Point(s) of Diversion

BOISE RIVER	L2 (SW1/4SE1/4)	Sec. 25, Twp 05N, Rge 05W, B.M.
CANYON County		

Place of Use

IRRIGATION

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			36.0	.7				21.0	23.0			9.3	26.0	34.0	22.0	27.0	199.0
												L 2				L 1			
05N	05W	23									18.0								18.0
05N	05W	27	.3	7.0			6.0												13.3
			L 5																

Total Acres: 230.3

Conditions of Approval:

1. E55 Right Nos. 63-127C, 63-128C, 63-129C, 63-130C, 63-131C, 63-178B, 63-21530 and 63-33590 are limited to the irrigation of a combined total of 373.3 acres in a single irrigation season.
2. This right is a split of Right No. 63-128B per settlement agreement dated 2-11-11.
3. SD1 This right originated as all or part of right no. 29 in the Stewart Decree and the historic Boise River Water Masters records.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-128C V1

4. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
5. K06 This right is limited to the irrigation of 199.3 acres within the place of use described above in a single irrigation season.
6. E56 The rights listed below are limited to the irrigation of a combined total of 199.3 acres in a single irrigation season. Combined Right Nos.: 63-127C and 63-128C.
7. Diversion of irrigation water under this water right prior to April 1 and after October 31 shall occur only when the natural flow of the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE¼ of the SE¼ of the SE¼, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, provided that any such use of this water right prior to April 1 and after October 31 shall not interfere with storage of water under water rights for Lucky Peak, Lake Lowell, Arrowrock, or Anderson Ranch Reservoirs.
8. 183 Whenever it becomes necessary for the watermaster to deliver this right the following condition shall apply. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.
9. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Remarks:

Comments:

1. jshurte 8/1/2011 Obj resolution

Comment: this recommendation was made per settlement agreement between Tree Top and Obendorf dated 2-11-2011.
See copy in file.

2. jshurte 5/10/2013 Rec Explanation

Comment: See comments and information in Right No. 63-127C

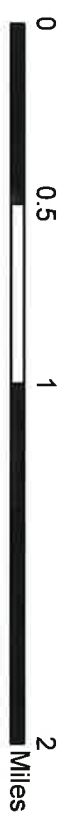
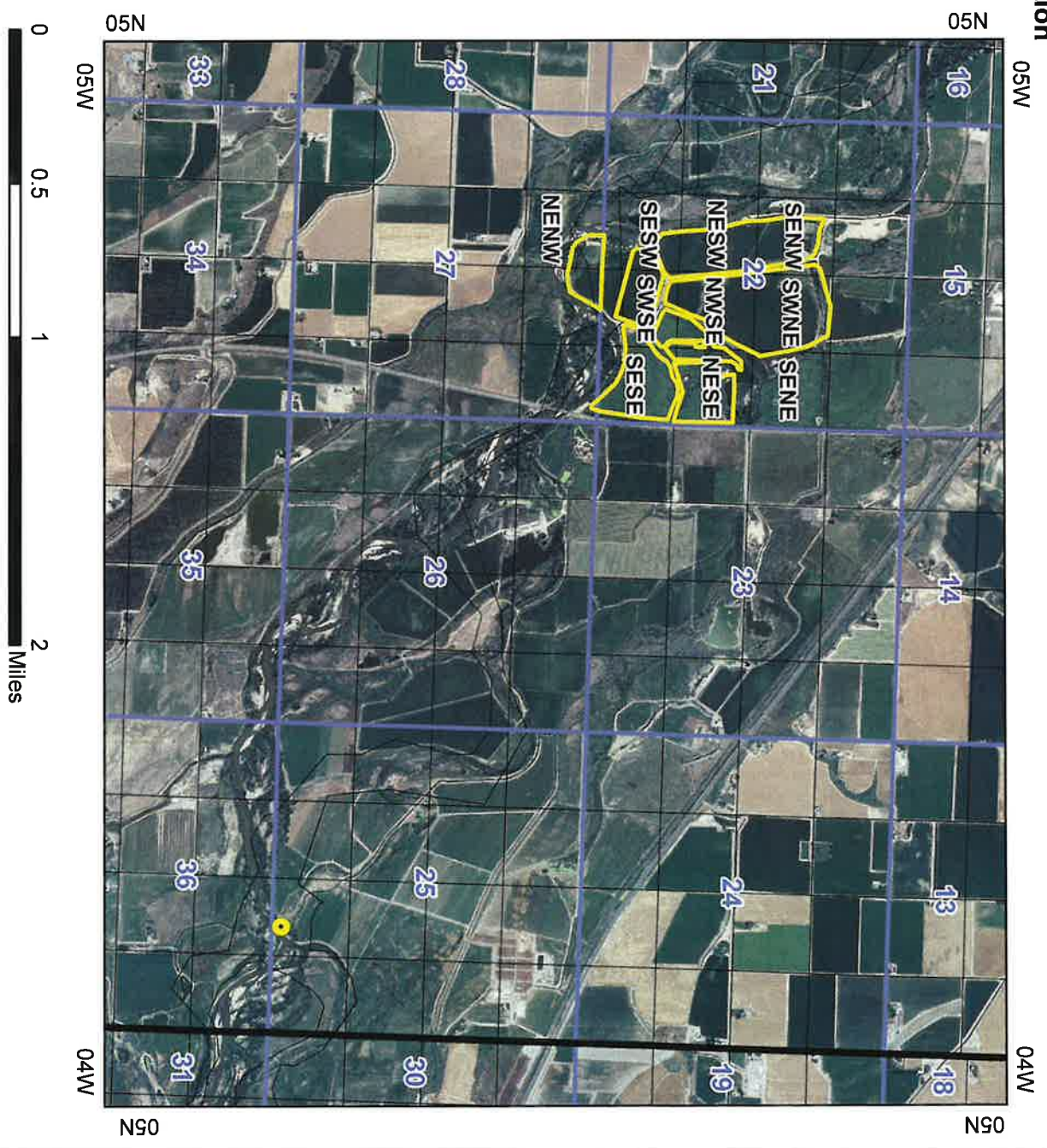
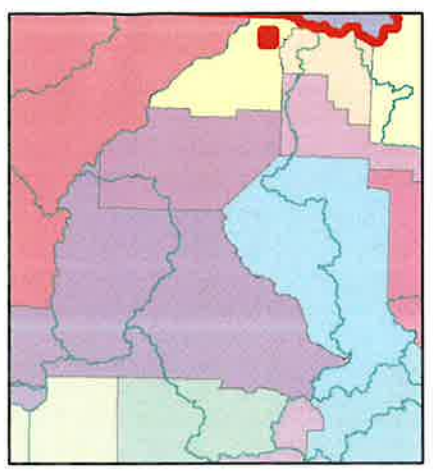
Water Supply Bank:

Idaho Department of Water Resources



Adjudication Recommendation 63-128C (IRRIGATION)

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Canyon County
IDWR Basin 63

Prepared by Shurte, Jan

2009 Aerial Photography

Shurte, Jan

EXPLANATION OF ACREAGE LIMITS.

From: Andy Waldera [AJW@moffatt.com]
Sent: Thursday, April 12, 2012 3:08 PM
To: Shurte, Jan
Subject: RE: Total acres for 63-127C-131C and 21530

Jan,

I thought so...I just wanted to make sure that I specifically asked about 178 because your prior e-mail did not explicitly lump it in with 127-131.

Anyway, we (Tree Top) are good with the 373.3 acres as proposed in your analysis. Thank you for re-reviewing the same.

Also, your recollection of the priority date-driven acreage limitations (199.3 acres) for right nos. 127 and 128 matches with mine.

At the end of the day, the additional acres (373.3) affords Tree Top even more flexibility, and we are all in support of that added flexibility.

After the SF5s are signed and filed with the Court once and for all, I'll meet you out on the town...I'm buying!

In all seriousness, however, thank you again for looking at these. It is always good to talk through them and make them the best they can be. As always, I appreciate your efforts and your willingness to pick up the phone...even if you nearly gave me a heart attack when you were working from the August 2011 versions of the SF5s instead of the October 2011 versions!

Have a good afternoon.

--Andy

From: Shurte, Jan [<mailto:Jan.Shurte@idwr.idaho.gov>]
Sent: Thursday, April 12, 2012 2:21 PM
To: Andy Waldera
Subject: RE: Total acres for 63-127C-131C and 21530

Andy,

The 230.3 included the 18 acres and the 13 acres on top of 199.3. All of the rights, even 178B reflect the 230.3. That just reminded me of why we limited 127C and 128C to 199.3 acres. It was because of the priority date of 178B (1869) which told us that 127 and 128 would not have had the additional 18 acres since they have earlier dates. 63-129C is 1870. I have a memo that you sent telling me the shift in the river that added the 13 acres occurred later, so that is why they were not added to the 199.3 acre combined total for 127C and 128C.

I'm not making excuses (maybe) but the only thing I can think of as to where the 273.3 came from is that the original Director's Report has a combined total of 242.3 which if you add the 18 ac and the 13 ac is 273.3 acres. It was my mistake not to check where the 242.3 came from. The logics of it are when you have 230.3 acres on one right and 169 acres on another with only a 26 acre overlap between the two, then a combined acre limit would have to be 373.3 acres.

One good thing is that I will need to put the combined use remark on 63-33590, plus add that number to the others and I can change them at the same time. When these are signed and to the Court, with no objections, I am going out on the town.

Jan

From: Andy Waldera [mailto:AJW@moffatt.com]
Sent: Thursday, April 12, 2012 1:08 PM
To: Shurte, Jan
Subject: RE: Total acres for 63-127C-131C and 21530

Jan,

Does 178 add another 18 acres on top of that...for a total of 391.3?

--Andy

From: Shurte, Jan [mailto:Jan.Shurte@idwr.idaho.gov]
Sent: Thursday, April 12, 2012 12:35 PM
To: Andy Waldera
Subject: Total acres for 63-127C-131C and 21530

Hi Andy,

For some reason I keep coming up with 373.3 acres and not 273.3 acres. Here are my calculations:

63-127C – 131C = 230.3 acres

63-21530 = 169 acres – 26 acre overlap = 143 acres

230.3 acres
+143.0 acres
373.3 acres total

If I put 273.3 then it will be limiting the rights as if there was a 126 acre overlap between them. What do you think?

Jan

NOTICE: This e-mail, including attachments, constitutes a confidential attorney-client communication. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (208) 345-2000, so that our address record can be corrected. Thank you.

NOTICE: To comply with certain U.S. Treasury regulations, we inform you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this e-mail, including attachments, is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any penalties that may be imposed by the Internal Revenue Service.

NOTICE: This e-mail, including attachments, constitutes a confidential attorney-client communication. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (208) 345-2000, so that our address record can be corrected. Thank you.

NOTICE: To comply with certain U.S. Treasury regulations, we inform you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this e-mail, including attachments, is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any penalties that may be imposed by the Internal Revenue Service.

70-7-11
w/connection

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase No. 63-128C
	)	Split from 63-128B
	)	
Case No. 39576	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

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

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

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

CLAIMANT/OBJECTOR:

Tree Top Ranches, LP

OBJECTOR(s):

Estate of Tina Iest

The Tina Iest Family, LLP



Andrew J. Waldera 10/5/11
Attorney for Claimant/Objector Date

Dana L. Hofstetter Date
Attorney for Objectors

OBJECTOR/RESPONDENT:

Greg Obendorf

Dana L. Hofstetter Date
Attorney for Objector/Respondent

RESPONDENT(s):

Boise Project Board of Control

Bureau of Reclamation

Albert P. Barker Date
Attorney for Respondent

David W. Gehlert Date
Attorney for Respondent

IDWR Concurrence:

Jan Shurte Date
Water Rights Supervisor

 9/20/11

Andrea L. Courtney Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 63-128C

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

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 5.280 CFS

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

PRIORITY DATE: 06/01/1865

POINT OF DIVERSION:

T05N R05W S25 SWSE Lot 2 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	5.280 CFS
Diversion of irrigation water under this water right prior to April 1 and after October 31 shall occur only when the natural flow of the Boise River below the Star Bridge in Township 04 North, Range 01 West, Section 18, NE¼ of the SE¼ of the SE¼, Boise Meridian (approximate river mile 33.9) is sufficient for water to be available for diversion at the point of diversion described above, provided that any such use of this water right prior to April 1 and after October 31 shall not interfere with storage of water under water rights for Lucky Peak, Lake Lowell, Arrowrock, or Anderson Ranch Reservoirs.		

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S22	SWNE	36.00	T05N R05W S22	SENE	0.70
T05N R05W S22	SENE	21.00	T05N R05W S22	NESW	23.00
T05N R05W S22 Lot 2	SESE	9.30	T05N R05W S22	NESE	26.00
T05N R05W S22	NWSE	34.00	T05N R05W S22 Lot 1	SWSE	22.00
T05N R05W S22	SESE	27.00	T05N R05W S23	NWSW	18.00
T05N R05W S27 Lot 5	NENE	0.30	T05N R05W S27	NWNE	7.00
T05N R05W S27	NENW	6.00			

230.3 ACRES TOTAL

SF5 Right No. 63-128C

Y 33590
This right is limited to the irrigation of 199.3 acres within the place of use described above in a single irrigation season.

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

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

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

This right is a split of Right No. 63-128B per settlement agreement dated 2-11-11.

This right is designated as No. 29 in the Stewart Decree and the Boise Water Distribution Report.

CERTIFICATE OF MAILING

I certify that on _____, 2011, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. Copies to:

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

ESTATE OF TINA IEST
GREG OBENDORF
THE TINA IEST FAMILY, LLLP
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702

TREE TOP RANCHES, LP
Represented by:
SCOTT L. CAMPBELL
ANDREW J. WALDERA
101 S. CAPITOL BLVD., 10TH FLOOR
P.O. BOX 829
BOISE, ID 83701-0829

USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES
550 WEST FORT STREET, MSC O33
BOISE, ID 83724

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney