

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

RIGHT NUMBER: 63-131C

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

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 3.080 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: 06/01/1891

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	3.080 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. 63-131C

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.

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 is a split from former right 63-131B

This right originated as all or part of right no. 121 in the Stewart Decree and the historic Boise River Water Masters records.

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,

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

RIGHT NUMBER: 63-131C

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: 3.080 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: 06/01/1891

POINT OF DIVERSION:

T05N R05W S25 SWSE Lot 2 Within CANYON County

PURPOSE AND
PERIOD OF USE:PURPOSE OF USEPERIOD OF USEQUANTITY

IRRIGATION

03/01 11/15

3.080 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. 63-131C

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
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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.

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 is a split of Right No. 63-131B per settlement agreement dated 2-11-11.

This right originated as all or part of right no. 121 in the Stewart Decree and the historic Boise River Water Masters records.

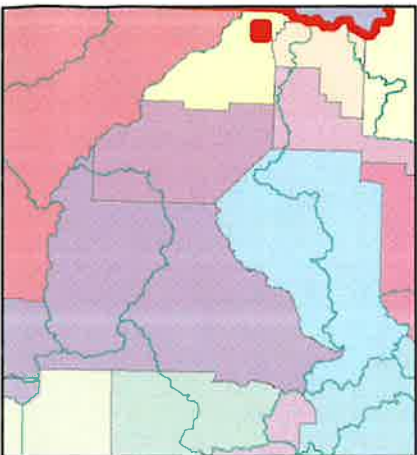
Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Idaho Department of Water Resources

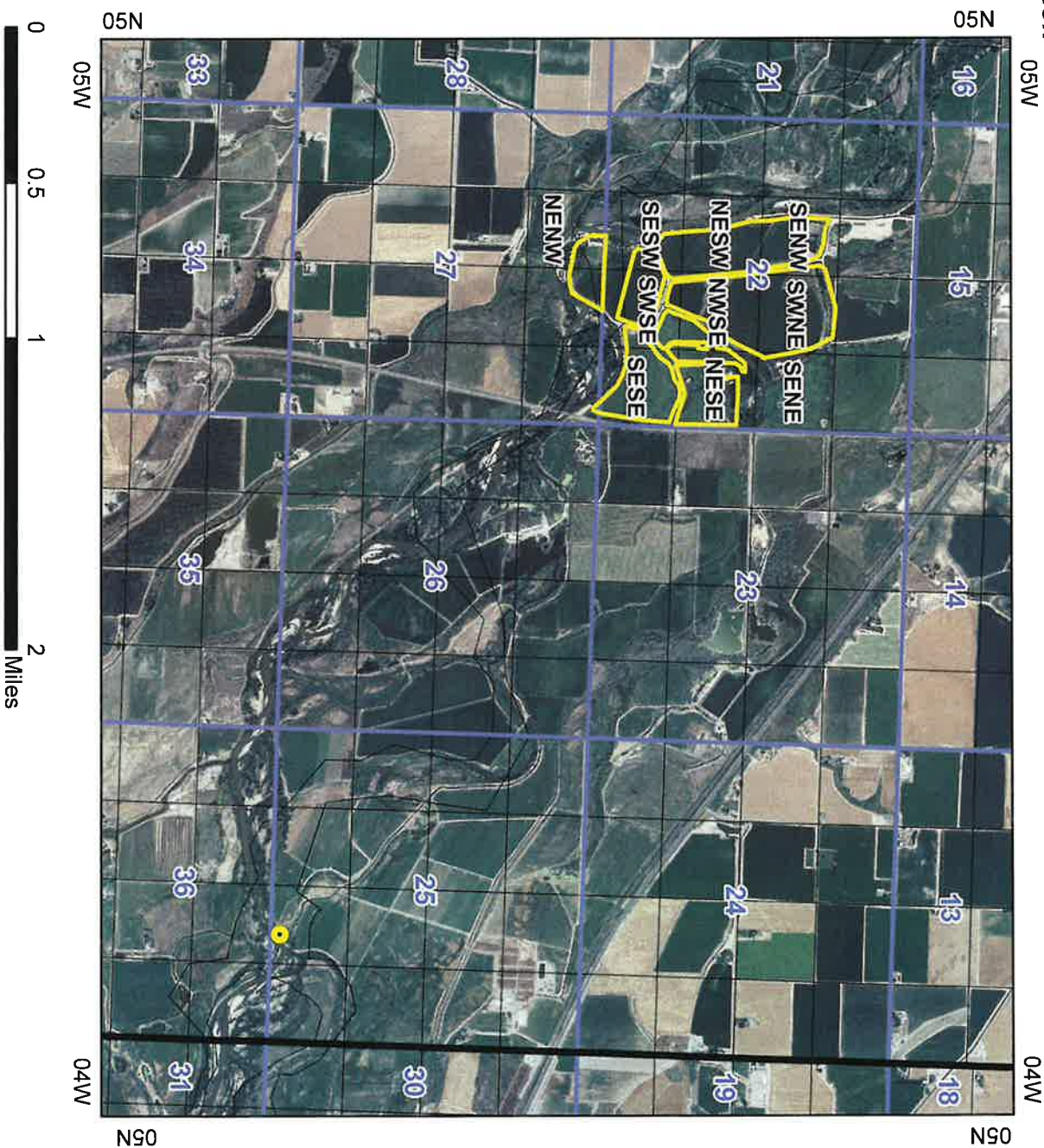


Adjudication Recommendation 63-131C (IRRIGATION)

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



Canyon County
IDWR Basin 63



Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
David B. Lincoln
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. Burns
Michael E. Thomas
Patricia M. Olsson

Christine E. Nicholas
Bradley J. Williams
Lee Radford
Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
Michael W. McGreaham
David P. Gardner
Julian E. Gabiola
Kimberly D. Evans Ross
Jon A. Stenquist
Mark C. Peterson
Tyler J. Anderson
Andrew J. Waldera
Dylan B. Lawrence

Paul D. McFarlane
C. Edward Cather III
Benjamin C. Ritchie
Amy A. Lombardo
Noah G. Hillen
Matthew J. McGee
David J. Dance
Mindy M. Willman
Jetta A. Hatch

Robert E. Bakes, *of counsel*

Willis C. Moffatt, 1907-1980
Eugene C. Thomas, 1931-2010
John W. Barrett, 1931-2011
Kirk R. Helvie, 1956-2003

RECEIVED

OCT 20 2011

DEPARTMENT OF
WATER RESOURCES

October 19, 2011

Boise
Idaho Falls
Pocatello

Mailing Address
PO Box 829
Boise ID 83701-0829

Physical Address
US Bank Plaza
101 S Capitol Blvd 10th Fl
Boise ID 83702-7710

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

Ray Williams, Paralegal
Idaho Department of Water Resources
322 E. Front Street, 6th Floor
P.O. Box 83720
Boise, ID 83720

Re: SRBA Standard Form 5s for Subcase Nos. 63-00127B, 63-00127D, 63-00128B, 63-00128D, 63-00129B, 63-00129D, 63-00130B, 63-00130D, 63-00131B, 63-00131D, 63-00178C, 63-00178D and 63-00178E

MTBR&F File No. 22567.0000

Dear Ray:

Please find enclosed the Standard Form 5s ("SF5s") for the above referenced subcases executed on behalf of Tree Top Ranches, L.P. ("Tree Top"). Given the Obendorfs' filing of late claims motions (nos. 63-33570 and 63-33571), and the parties' discussions during yesterday morning's status conference with Special Master Booth, I did not sign (and, therefore, am not returning) the SF5s for right nos. 63-3201 and 63-9744. As you recall, and according to Dana Hofstetter, late claim nos. 63-33570 and 63-33571 are intended to replace water right nos. 63-3201 and 63-9744 should the Court allow the late claims to proceed and should the Department ultimately recommend them.

Also please note that while I did execute the SF5s for right nos. 63-127D, -128D, -129D, -130D, -131D, and -178D (all Obendorf rights), those signatures may prove useless should late claim nos. 63-33570 and 63-33571 replace water right nos. 63-3201 and 63-9744 in the future. This is because the above-referenced Obendorf SF5 water right reports each contain the remark that the rights are injected into Sand Hollow Creek "for mitigation of Sand Hollow Creek Right Nos. 63-3201 and 63-9744." If right nos. 63-3201 and 63-9744 are ultimately replaced by late claim nos. 63-33570 and 63-33571 (and subsequently disallowed as a result) the SF5s will have to be revised to substitute numbers "63-33570 and 63-33571" for numbers "63-3201 and 63-9744" within the remark. Consequently, the Obendorf SF5s will have to be re-routed to everyone for signature once again.

Ray Williams, Paralegal
October 19, 2011
Page 2

Acknowledging this, I signed the Obendorf SF5s in their present form so that Ms. Hofstetter and her clients would know that Tree Top otherwise agrees with the rights as settled, and that Tree Top is proceeding under the parties' settlement agreement as planned. Further, late claim nos. 63-33570 and 63-33571 only directly implicate the final resolution of the Obendorf rights, not the rights of Tree Top, TheDrake LLC, or the Tina Iest Family, LLLP. Thus, Ms. Hofstetter and her clients should review and execute the unaffected SF5s:

Disallowed: 63-127B, -128B, -129B, -130B, and -131B

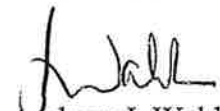
Tree Top: 63-127C, -128C, -129C, -130C, -131C, -178B, and -21530

Iest: 63-178C

TheDrake: 63-178E.

I look forward to receiving the fully executed, court conformed copies of these documents in the near future. If you have any questions or comments in the meantime, please feel free to contact me directly at 385-5418.

Very truly yours,



Andrew J. Waldera

AJW/dll
Enclosures
cc: Bill Mulder

**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. 63-131C
	)	<i>Split from 63-131B</i>
	)	
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 Date
Attorney for Claimant/Objector

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

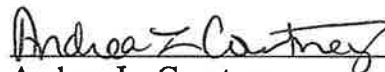
Bureau of Reclamation

Albert P. Barker Date
Attorney for Respondent

David W. Gehlert Date
Attorney for Respondent

IDWR Concurrence:

Jan Shurte Date
Water Rights Supervisor

 8/1/14

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: 63-131C

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

ATL

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 3.080 CFS

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PRIORITY DATE: 06/01/1891

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T05N R05W S25 SWSE Lot 2 Within CANYON County

PURPOSE AND
PERIOD OF USE:PURPOSE OF USEPERIOD OF USEQUANTITY

IRRIGATION

03/01 11/15

3.080 CFS

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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
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T05N R05W S22	SESE	27.00	T05N R05W S27 Lot 5	NENE	0.30

199.3 ACRES TOTAL

Right Nos. 63-127C, 63-128C, 63-129C, 63-130C, 63-131C and 63-21530 are limited to the irrigation of a combined total of 242.3 acres in a single irrigation season.

373.3
335.90

AK

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 is designated as No. 121 in the Stewart Decree and the Boise Water Distribution Report.

This right is a split of Right No. 63-131B per settlement agreement dated 2-11-11.

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 033
BOISE, ID 83724

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

Signature of person or attorney