

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

RIGHT NUMBER: 63-33497

NAME AND ADDRESS: ANN OBENDORF
26496 DEB LN
PARMA ID 83660

GREG OBENDORF
26496 DEB LN
PARMA ID 83660

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 2.790 CFS

This right is diverted from the Boise River in the SWSE, Lot 2, S25, Twp. 5N, Rge.5W, and injected into Sand Hollow Creek in the NWNW, Lot 6, S25, Twp. 5N, Rge.5W for mitigation of irrigation use Sand Hollow Creek under Right Nos. 63-3201 and 63-9744 63-33570 and 63-33571.

PRIORITY DATE: 03/01/1964

POINT OF DIVERSION:

T05N R05W S25 NWNW Lot 6 Injection Within CANYON County

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>
MITIGATION	03/01 11/15	2.790 CFS
Diversion for mitigation 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 ~~be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.~~ not interfere with storage of water under water rights for Lake Lowell, Lucky Peak, Arrowrock or Anderson Ranch Reservoirs.		

PLACE OF USE: MITIGATION in CANYON County

T05N R05W S23	NWNE	T05N R05W S23	SWNE
T05N R05W S23	SENE	T05N R05W S23	NENW

SF5 Right No. 63-33497

T05N R05W S23	SENW	T05N R05W S23	NESE
T05N R05W S23	SESE	T05N R05W S24	NESW
T05N R05W S24	NWSW	T05N R05W S24	SWSW
T05N R05W S24	SESW	T05N R05W S24	SWSE

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 - Beneficial Use

Shurte, Jan

From: Shurte, Jan
Sent: Monday, October 07, 2013 4:52 PM
To: 'Dana Hofstetter'
Cc: Cooley-Denney, Suzy
Subject: FW: Final SF5s to be mailed
Attachments: SF5 Right No. 63-127A.docx; SF5 Right No. 63-127B.docx; SF5 Right No. 63-127C.docx; SF5 Right No. 63-127D.docx; SF5 Right No. 63-128A.docx; SF5 Right No. 63-128B.docx; SF5 Right No. 63-128C.docx; SF5 Right No. 63-128D.docx; SF5 Right No. 63-129A.docx; SF5 Right No. 63-129B.docx; SF5 Right No. 63-129C.docx; SF5 Right No. 63-129D.docx; SF5 Right No. 63-130A.docx; SF5 Right No. 63-130B.docx; SF5 Right No. 63-130C.docx; SF5 Right No. 63-130D.docx; SF5 Right No. 63-131A.docx; SF5 Right No. 63-131B.docx; SF5 Right No. 63-131C.docx; SF5 Right No. 63-131D.docx; SF5 Right No. 63-178B.docx; SF5 Right No. 63-178D.docx; SF5 Right No. 63-178E.docx; SF5 Right No. 63-3201.docx; SF5 Right No. 63-9744.docx; SF5 Right No. 63-33497.docx; SF5 Right No. 63-33498.docx; SF5 Right No. 63-33499.docx; SF5 Right No. 63-33511.docx; SF5 Right No. 63-33570.docx; SF5 Right No. 63-33571.docx; SF5 Right No. 63-33590.docx; SF5 Right No. 63-21530.docx; SF5 Right No. 63-178C.docx

Hi Dana,

Here are all of these again. Please look at the the Obendorf's rights which have had the mitigation language changed, the name on 63-178C now shows The Iest Family LLLP and the change in the acre limitation on 63-33571.

The idea is to send these out for signature as soon as we get the correct signatory names for each from you. Then, if you get me a deed for the land under 63-178C with the name of The Iest Family LLLP on it I can change our database. I wanted these circulating for signature asap so I changed the name in the overstrike/underline format for the SF5s.

Email Suzy or myself the names for signature on the cover sheets and we will get these out the door.

Thanks,
Jan

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

RIGHT NUMBER: 63-33497

NAME AND ADDRESS: ANN OBENDORF
26496 DEB LN
PARMA ID 83660

GREG OBENDORF
26496 DEB LN
PARMA ID 83660

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 2.790 CFS

This right is diverted from the Boise River in the SWSE, S25, Twp. 5N, Rge. 5W, and injected into Sand Hollow Creek in the NWNW, S. 25, Twp. 5N, Rge. 5W for mitigation of Sand Hollow Creek Right Nos. ~~63-3201 and 63-9744~~.
63-33570 and 63-33571.

PRIORITY DATE: 03/01/1964

POINT OF DIVERSION:

T05N R05W S25 NWNW Injection Within CANYON County

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>
MITIGATION	03/01 11/15	2.790 CFS
Diversion for mitigation 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 ~~be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576,~~ not interfere with storage of water under water rights for Lake Lowell, Lucky Peak, Arrowrock or Anderson Ranch Reservoirs.		

PLACE OF USE: MITIGATION in CANYON County

T05N R05W S23	NWNE	T05N R05W S23	SWNE
T05N R05W S23	SENE	T05N R05W S23	NENW

SF5 Right No. 63-33497

T05N R05W S23	SENW	T05N R05W S23	NESE
T05N R05W S23	SESE	T05N R05W S24	NESW
T05N R05W S24	NWSW	T05N R05W S24	SWSW
T05N R05W S24	SESW	T05N R05W S24	SWSE

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 - Beneficial Use

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-33497 V2

WATER RIGHT NUMBER: 63-33497 V2

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	DANA L HOFSTETTER HOFSTETTER LAW OFFICE LLC 608 W FRANKLIN ST BOISE, ID 83702 (208)424-7800
Current Owner	ANN OBENDORF 26496 DEB LN PARMA, ID 83660 (208)722-6451
Current Owner	GREG OBENDORF 26496 DEB LN PARMA, ID 83660 (208)722-6451

Priority Date: 03/01/1964

Basis: Beneficial Use

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>
MITIGATION	03/01 to 11/15	2.790 CFS	
	<u>Total Diversion:</u>	2.790 CFS	

Location of Point(s) of Diversion

BOISE RIVER	L2 (SW1/4SE1/4)	Sec. 25, Twp 05N, Rge 05W, B.M.
CANYON County		
BOISE RIVER	NW1/4NW1/4	Sec. 25, Twp 05N, Rge 05W, B.M.
CANYON County	(Injection)	

Place of Use

MITIGATION Within CANYON County

T05N R05W S23	NWNE	T05N R05W S23	SWNE
T05N R05W S23	SENE	T05N R05W S23	NENW
T05N R05W S23	SENW	T05N R05W S23	NESE
T05N R05W S23	SESE	T05N R05W S24	NESW
T05N R05W S24	NWSW	T05N R05W S24	SWSW
T05N R05W S24	SESW	T05N R05W S24	SWSE

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-33497 V2

1. This right is diverted from the Boise River in the SWSE, S25, Twp. 5N, Rge. 5W, and injected into Sand Hollow Creek in the NWNW, S. 25, Twp. 5N, Rge. 5W for mitigation of Sand Hollow Creek Right Nos. 63-33570 and 63-33571.
2. S49 Diversion for mitigation 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 Lake Lowell, Lucky Peak, Arrowrock and Anderson Ranch Reservoirs.
3. 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.

Remarks:

Comments:

1. jshurte 3/29/2013 Late Claim rec

Comment: This recommendation is a result of a settlement between the right holder and Tree Top Ranches dated 2-8-11 and submission of evidence of priority and ditch capacity.

2. jshurte 5/7/2013 See Version 1

Comment: Version 1 comments explain some of the history behind this recommendation along with 63-33498, 33499 and 33590. In the end the attorney, Dana Hofstetter, accepted the 1964 priority date lacking any further evidence after the 1938 priority date was disputed as explained in the recommendation version 1 for this right. This right was originally disallowed and the recommendation is explained in the comments on version 1. The season of use was approved to be changed per the settlement dated 2-11-11. The original number of acres changed from 254 to 241 minus the 13 additional acres that were to be recommended under the 63-9744. Per field exams by the Dept only 241 acres were proven up on for the two right nos. 63-33570 and 63-33571 that were filed to replace 63-3201 and 63-9744. They do have a ppu of 254 acres with a limiter of 241 acres within that ppu after the claimant decided to drop the 13 acres on 63-9744 due to a condition on that license they wanted to avoid. See information in Version 1 also.

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-33497 V1

WATER RIGHT NUMBER: 63-33497 V1

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	DANA L HOFSTETTER HOFSTETTER LAW OFFICE LLC 608 W FRANKLIN ST BOISE, ID 83702 (208)424-7800
Current Owner	ANN OBENDORF 26496 DEB LN PARMA, ID 83660 (208)722-6451
Current Owner	GREG OBENDORF 26496 DEB LN PARMA, ID 83660 (208)722-6451

Priority Date: 03/01/1964

Basis: Beneficial Use

Status: Closed

<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>
MITIGATION	03/01 to 11/15	2.790 CFS	
	<u>Total Diversion:</u>	2.790 CFS	

Location of Point(s) of Diversion

BOISE RIVER	L2 (SW1/4SE1/4)	Sec. 25, Twp 05N, Rge 05W, B.M.
CANYON County		
BOISE RIVER	NW1/4NW1/4	Sec. 25, Twp 05N, Rge 05W, B.M.
CANYON County	(Injection)	

Place of Use

MITIGATION Within CANYON County

T05N R05W S23	NWNE	T05N R05W S23	SWNE
T05N R05W S23	SENE	T05N R05W S23	NENW
T05N R05W S23	SENW	T05N R05W S23	NESE
T05N R05W S23	SESE	T05N R05W S24	NESW
T05N R05W S24	NWSW	T05N R05W S24	SWSW
T05N R05W S24	SESW	T05N R05W S24	SWSE

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-33497 V1

1. 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.
2. This right is diverted from the Boise River in the SWSE, S25, Twp. 5N, Rge. 5W, and injected into Sand Hollow Creek in the NWNW, S. 25, Twp. 5N, Rge. 5W for mitigation of Sand Hollow Creek Right Nos. 63-3201 and 63-9744.
3. S49 Diversion for mitigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in 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 be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

Remarks:

Comments:

1. jshurte 5/21/2012 Disallowal

Comment: This claim was filed as a part of the settlement of the Andrews Ditch Co. water rights. The Stewart decree rights totaled 26.7 cfs and the ditch was measured in 2008 at 40 cfs. Each member of the ditch then filed b/u claims to make up the difference. I requested proof that the ditch was flowing 40 cfs at the time the Stewart decree was finalized because these are b/u claims and evidence of priority is needed especially where the Stewart decree had just been completed decreeing a certain amount. Evidence was requested and none submitted so this right is being disallowed. See comments in 63-33590 also.

2. jshurte 5/29/2012 Recommendation

Comment: Evidence in the form of two affidavits from individuals still living was submitted on 5-21-2012 which dated back to 1964. The priority for the first day of the irrigation season was given 3-1-1964. The original priority date claimed was one day after the Stewart Decree or 1/19/1906. I requested evidence that the ditch was able to carry this amount dating back to 1906 and received the above mentioned affidavits. This right is a part of a settlement between Tree Top Ranches, Obendorf, Iest and Hauck. A measurement was conducted by SPF Water engineering on 11-19-2008 on the Andrews ditch. With the ditch full 40 cfs was being diverted. The water rights decreed in 1906 from the Stewart Decree total 26.7 cfs. The parties then filed beneficial use claims on the remaining 13.3 cfs in order to keep the system running as it has historically been. There was mention of Boise River rights for E G Johnson aka Right Nos 63-180, 63-181 and 63-33406 which have been recommended as mitigation for Sand Hollow creek right nos. 63-4036A and B. These rights date back to 1938 when the diversion of 63-180 et al from the Boise River Andrews ditch was ceased and 63-4036A and B represent the beginning of diverting Sand Hollow Creek water instead of the Boise River water for the same lands due to better irrigation methods and more available flow in Sand Hollow Creek from increased irrigation of surrounding lands and increased wastewater into Sand Hollow Creek. The thought is that when the flow was reduced from the Andrews ditch by E G Johnson ceasing diversion in 1938 then that would be the priority date justification for that amount of water remaining in the Andrews ditch. However that amount of water is 9.5 cfs and not 13.3 cfs so the 1964 affidavits were used. An objection will likely be filed on this and the other rights 63-33498, 63-33499 and 63-33590. This comment will be a reference for all of these rights.

3. jshurte 5/31/2012 CFS per acre

Comment: This right is for mitigation for irrigation. However, if you add up all the cfs for the Boise River mitigation rights plus the Sand Hollow Creek Right Nos. 63-3201 and 63-9744 the cfs per acre for 254 acres is .03 cfs per acre. The Hubble analysis allows for .06 cfs for this area. This Hubble was done for the Haas ditch company in this area and used in the original recommendations for the Andrews Ditch Co. The acres are still limited to the 254 acres now irrigated from the Sand Hollow Creek rights ~~63-3201 and 63-9744.~~

63-33570 & 63-33571

241 WITHIN A
254 AC PPU

05/06/2013

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

RIGHT NUMBER: 63-33497

NAME AND ADDRESS: ANN OBENDORF
26496 DEB LN
PARMA ID 83660

GREG OBENDORF
26496 DEB LN
PARMA ID 83660

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 2.790 CFS

This right is diverted from the Boise River in the SWSE, S25, Twp. 5N, Rge. 5W, and injected into Sand Hollow Creek in the NWNW, S. 25, Twp. 5N, Rge. 5W for mitigation of Sand Hollow Creek Right Nos. 63-33570 and 63-33571.

PRIORITY DATE: 03/01/1964

POINT OF DIVERSION:

T05N R05W S25 NWNW Injection Within CANYON County

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>
MITIGATION	03/01 11/15	2.790 CFS
Diversion for mitigation 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 <u>water rights for Lake Lowell, Lucky Peak, Arrowrock and Anderson Ranch Reservoirs.</u>		

PLACE OF USE: MITIGATION in CANYON County

T05N R05W S23	NWNE	T05N R05W S23	SWNE
T05N R05W S23	SENE	T05N R05W S23	NENW
T05N R05W S23	SENW	T05N R05W S23	NESE
T05N R05W S23	SESE	T05N R05W S24	NESW
T05N R05W S24	NWSW	T05N R05W S24	SWSW

T05N R05W S24

SESW

T05N R05W S24

SWSE

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

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EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

SRBA

DIRECTORS REPORT 63-33497

[Return to SRBA Home Page](#)

IWT072

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

Right Number: 63-33497

Name and Address: ANN OBENDORF
GREG OBENDORF
26496 DEB LN
PARMA, ID 83660

Source: BOISE RIVER Tributary: SNAKE RIVER

Quantity: 2.79 CFS

This right is diverted from the Boise River in the SWSE, S25, Twp. 5N, Rge. 5W, and injected into Sand Hollow Creek in the NWNW, S. 25, Twp. 5N, Rge. 5W for mitigation of Sand Hollow Creek Right Nos. ~~63-3201 and 63-9744.~~ 33570 & 33571

Priority Date: 03-01-1964

Diversion Point: T05N R05W S25 LOT 2 (SWSE)Within Canyon County
NWNW (InjectCanyon

Purpose and			
Period of Use:	Purpose of Use	Period of Use	Quantity
	Mitigation	03-01 TO 11-15	2.79 CFS

Diversion for mitigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in 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 be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

Place of Use:	Mitigation		Within Canyon County
	T05N R05W S23	NWNE	SWNE
		SENE	NENW
		SENE	NESE
		SESE	
	S24	NESW	NWSW
		SWSW	SESW
		SWSE	

Obenauy

Overlapping Rights

63-1270, 1280, 1290, 1300,
1310, 1780, 3201, 9744, 33511,
✓ 33497.

1270 - .41

BOISE R

1280 - .12

1290 - .14

1300 - .11

1310 - .42

1780 - .54

3201 - 3.34

9744 - 1.74

SAND HOLLOW

"

33511 - 3.2

BOISE R

33520 - DIS

33571 - DIS

33497 - 2.79

BOISE R

13.43 cfs for 25NAC

.05 OK
cfs
(.06 cfs)
per Hubble

= .05 cfs / AC OK → .06 cfs
per Hubble analysis
See PRT's memo on this.

*DANA CALLED & CONCEDED ON THE 1964 DATE FOR 33497,
33498 & 33499. SHE'S OK WITH 7.5 AC AS IS ON 33499+178E
OK WITH CONDITION ALSO (S)*
Shurte, Jan

From: Dana Hofstetter [Dana@IdahoWaterLaw.com]
Sent: Thursday, March 28, 2013 3:10 PM
To: Shurte, Jan
Subject: Re: Right Nos. 63-33497, 33498 and 33499

4/29/13

Thank you for the info. I'll be in touch tomorrow.

On 3/28/2013 3:04 PM, Shurte, Jan wrote:

Dana,

No, Andy stated that Tree Top is good with the 1964 priority date, but did not want to be counted out if we were to recommend the 1938 date.

Jan

From: Dana Hofstetter [mailto:Dana@IdahoWaterLaw.com]
Sent: Thursday, March 28, 2013 2:48 PM
To: Shurte, Jan
Cc: Courtney, Andrea
Subject: Re: Right Nos. 63-33497, 33498 and 33499

Jan,

Thank you for this email. This is my next priority and I will be in touch tomorrow on this. Could you give me an update on where Tree Top is on the priority date issue? Did they obtain any pre-1964 evidence?

Thank you,
Dana

On 3/28/2013 11:10 AM, Shurte, Jan wrote:

Dana,

At our last meeting concerning these rights we discussed the following (based on your client's objections):

- 1- Changing the season of use remark to the remark agreed upon in your settlement with Tree Top and already included in the 63-127C thru 63-131C and 178C thru 178E.
- 2- Going back to a 1938 priority date which represented when E G Johnson began using Sand Hollow Creek water and no longer used Boise River water under his Stewart decreed rights.
- 3- Under 63-33499 and 63-178E the place of use is not the same as recommended, there may be more acres, or the acres recommended are not correct. You had stated you would send me a map outlining which acres go with each right.

This email serves as an update on my progress and also a reminder of what I still need from you.

I am in the process of changing the season of use remark to match the remark from your settlement for these rights.

I cannot change the priority date to 1938 because I do not have proof that when E G Johnson began using Sand Hollow Creek instead of the Boise River it immediately was used by the Obendorfs. You've given me no proof that the Obendorfs or their predecessor(s) actually diverted the water for the purpose of irrigation of their lands, only the theory that it happened by default. There needs to be evidence that the 40 cfs was in the ditch in 1938 since the decreed water rights, at that time, did not add up to 40 cfs. My suggestion is we settle with the 1964 priority date that is proven by the landowner's affidavits. If the lower Boise River were ever administered by the water master it is unlikely a right with either a 1938 or 1964 priority would be delivered in lieu of the Stewart and Bryan decreed rights.

Please send me the maps concerning 63-33499 and 63-178E as to where the 7.5 acres for each lie. In the meantime I will work on all of the water rights in the settlement to prepare them for SF5s.

Thanks,
Jan

Shurte, Jan

From: Shurte, Jan
Sent: Thursday, March 28, 2013 3:04 PM
To: 'Dana Hofstetter'
Cc: Courtney, Andrea; Andy Waldera
Subject: RE: Right Nos. 63-33497, 33498 and 33499

Dana,

No, Andy stated that Tree Top is good with the 1964 priority date, but did not want to be counted out if we were to recommend the 1938 date.

Jan

From: Dana Hofstetter [<mailto:Dana@IdahoWaterLaw.com>]
Sent: Thursday, March 28, 2013 2:48 PM
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Dana

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I am in the process of changing the season of use remark to match the remark from your settlement for these rights.

I cannot change the priority date to 1938 because I do not have proof that when E G Johnson began using Sand Hollow Creek instead of the Boise River it immediately was used by the Obendorfs. You've given me no proof that the Obendorfs or their predecessor(s) actually diverted the water for the purpose of irrigation of their lands, only the theory that it happened by default. There needs to be

evidence that the 40 cfs was in the ditch in 1938 since the decreed water rights, at that time, did not add up to 40 cfs. My suggestion is we settle with the 1964 priority date that is proven by the landowner's affidavits. If the lower Boise River were ever administered by the water master it is unlikely a right with either a 1938 or 1964 priority would be delivered in lieu of the Stewart and Bryan decreed rights.

Please send me the maps concerning 63-33499 and 63-178E as to where the 7.5 acres for each lie. In the meantime I will work on all of the water rights in the settlement to prepare them for SF5s.

Thanks,
Jan

Shurte, Jan

From: Hofstetter Law Office [Dana@IdahoWaterLaw.com]
Sent: Thursday, April 26, 2012 2:37 PM
To: Shurte, Jan; Courtney, Andrea
Cc: AJW@moffatt.com
Subject: Re: Late Claim Nos. 63-33497 - Obendorf, 63-33498 - Iest, 63-33499 - The Drake LLC

Jan and Andrea:

I have obtained 2 Affidavits in connection with this matter. I would like to provide this information prior to the April 30 submission of the Director's Reports to the SRBA Court. However, I understand that Jan remains out of the office. Please advise how and to whom I should submit this information.

Thank you,
Dana

On 3/23/2012 12:56 PM, Shurte, Jan wrote:
Hi Dana,

I am in the process of reviewing the beneficial use late claims for the Andrews ditch in preparation for the April 30th due date. The above b/u late claims are claiming a 1/19/1906 priority date for a total of 6.52 cfs over and above the amount decreed for the Andrews ditch in the Stewart Decree.

In order to recommend this priority date I will need some evidence of priority that could document that this additional amount of water was being diverted in 1906. This can be in the form of affidavits, documentation of who spoke of this amount of water to necessitate the filing, newspaper articles, historical articles, just about anything will help. We know the ditch diverts more than it's decreed rights at this time, so I am looking for some kind of idea as to why we can go back to 1906.

If you have any questions concerning this request, please feel free to contact me.

Jan Shurte

Adjudication Technical Analyst
Idaho Dept of Water Resources
322 E Front St
Boise, Idaho 83720
(208) 287-4992

Mtg. 12-4-12

Maps to Now
on 63-33570 +
33571 - 1939 maps)

- 1- Typo 127C rather than D
- 2- POU

Percentage pro-rated for each party.

9.5 1964 } divided % rate
3.8 1938 }
13.3 cfs

Split into 63-33497A + B
33498A + B
33499A + B
etc. 33590 A + B

A - Offender
B -

63-33498 - 3/1 to 11/15 - no problem.
with changing the season of use.

63-33499 - POU - 7.5 acres are
not the same for 128E + 33499 send
Could be more - 15 acres - Dava will map.
~~63-33497 - Take out remnant w/ #'s~~
~~under~~

OK on w/ #'s 33497 - (3201 + 9744).
until we settle 33570 + 33571.

OBENDORF PORTION

EG JOHNSON RTS

63-4036A - Sand Hollow Creek } TOTAL
63-4036B - " " " } 4.53
cfs

63-4036A - 2.11 cfs - SWNW, 5.10
63-4036B - 2.42 cfs - SWNE 5.30
4.53 TOTAL CFS

63-28751 - UNN. DRAIN

63-32394 - WASTEWATER

MEAS. 6.44 CFS 63-4036A
" 2.42 CFS 63-4036B
8.86 CFS TOTAL - 1938

13.3 CFS
- 8.86 CFS
4.44 CFS

However, the 1938 date is only cleared for

63-4036A - 2.11 CFS

4036B - 2.42 CFS

4.53 CFS TOTAL - 1938

13.3
- 4.53

8.79 cfs - 1964 per affidavits

TEST -
THE DRAKE - } Proof of 1938 date
TREE TOP - } of

* If you use proof of the Boise River
Right not diverting anymore in
1938 - the Boise River right is
for only 3.8 cfs.

63 - 33406

If we use 1938 priority for when
F G Johnson took his Boise
River Rts out of the Andrews
ditch & began using Sand
Hollow Creek water then the total
we could use would be:

3.8 cfs under 43-33406.

43-4034A & 43-4034B total 4.44 cfs
decreased.

Should the 3.8^{would} be divided prop.
amongst all users with the
remainder having a 1964 priority
date under 33495-99 & 33590.

HOFSTETTER LAW OFFICE

608 West Franklin Street

Boise, Idaho 83702

Dana@IdahoWaterLaw.com

Dana L. Hofstetter
Attorney at Law

Telephone: (208) 424-7800
Facsimile: (208) 424-8774

May 19, 2011

DRAFT

Jan Shurte
Western Regional
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Re: Greg and Ann Obendorf - SRBA Subcase Nos. 63-127A&B, 63-128A&B,
63-129A&B, 63-130A&B, 63-131A&B, 63-160, 63-178B&C and 63-33497

Dear Jan:

This letter responds to your request for more information about Greg and Ann Obendorf's use of Andrews Ditch water for mitigation pursuant to the above-referenced SRBA claims.

The Stewart Decree reflects that the Obendorfs' property originally was irrigated with Boise River water from what is now referred to as the Andrews Ditch pursuant to Water Right Nos. 63-127, 63-128, 63-129, 63-130, 63-131, 63-160 and 63-178. Quite awhile ago the Obendorfs' predecessors shifted the irrigation point of diversion away from the Boise River over to the Sand Hollow Creek drainage as this source became more reliable due to hydrological changes in the area. John Marshall's letter to you of May 13, 2010, regarding the adjacent EG Johnson Farms water rights, explains that these hydrological changes occurred "as the surrounding area developed in the 1930's using water supplied through the Black Canyon Irrigation District and the Farmers Cooperative Project." As Mr. Marshall further explains, "this reach was prone to flooding and course alteration, making it difficult to obtain a reliable diversion. It also appears that it was difficult to irrigate the property with the relatively low head generated by the ditches [from the Boise River]." Similarly, the Obendorfs' property predecessors apparently changed the points of diversion from the Boise River to the Sand Hollow Creek and

DRAFT

drainage for the same reasons.

The new points of diversion for the Obendorf property are reflected in Water Right License Nos. 63-3201 and 63-9744 which were applied for in 1960 and 1981, respectively, although the actual on the ground changes apparently occurred much earlier. Available information confirms continuous historic irrigation of the Obendorf property, while the points of diversion shifted from the Boise River to the Sand Hollow Creek drainage.

A branch ditch from the Andrews Ditch continues to deliver water today to Sand Hollow Creek just before it enters the Obendorf property. Within the last few years, SPF Water Engineering, working for Tree Top Ranches in connection with SRBA matters, measured the amount of water flowing from the Andrews Ditch into Sand Hollow Creek at about 7 cubic feet per second. This delivery of water from the Andrews Ditch into Sand Hollow mitigates for the Obendorf diversions from the Sand Hollow drainage. In fact, the delivery of the mitigation water into Sand Hollow Creek just as the Creek enters the Obendorf property ensures that any downstream users on Sand Hollow Creek realize the benefit of this mitigation, while the continued diversion of the Boise River water from the historic Andrews Ditch ensures that those downstream on the Boise River also are not affected.

Please let me know if you would like the any further information regarding these matters or if you have any further questions. Thank you.

Sincerely,

HOFSTETTER LAW OFFICE, LLC

DRAFT

Dana L. Hofstetter

05/30/2012

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

RIGHT NUMBER: 63-33497

NAME AND ADDRESS: GREG OBENDORF
26496 DEB LN
PARMA ID 83660

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 2.790 CFS

This right is diverted from the Boise River in the SWSE, S25, Twp. 5N, Rge. 5W, and injected into Sand Hollow Creek in the NWNW, S. 25, Twp. 5N, Rge. 5W for mitigation of Sand Hollow Creek Right Nos. 63-3201 and 63-9744.

PRIORITY DATE: 03/01/1964

POINT OF DIVERSION:

T05N R05W S25 NWNW Injection Within CANYON County

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>
MITIGATION	03/01 11/15	2.790 CFS
Diversion for mitigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in 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 be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.		

PLACE OF USE: MITIGATION in CANYON County

T05N R05W S23	NWNE	T05N R05W S23	SWNE
T05N R05W S23	SENE	T05N R05W S23	NENW
T05N R05W S23	SENW	T05N R05W S23	NESE
T05N R05W S23	SESE	T05N R05W S24	NESW
T05N R05W S24	NWSW	T05N R05W S24	SWSW
T05N R05W S24	SESW	T05N R05W S24	SWSE

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 - Beneficial Use

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-33497 V1

WATER RIGHT NUMBER: 63-33497 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	GREG OBENDORF 26496 DEB LN PARMA, ID 83660 (208)722-6451
Attorney	DANA L HOFSTETTER HOFSTETTER LAW OFFICE LLC 608 W FRANKLIN ST BOISE, ID 83702 (208)424-7800

Priority Date: 03/01/1964

Basis: Beneficial Use

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>
MITIGATION	03/01 to 11/15	2.790 CFS	
	<u>Total Diversion:</u>	2.790 CFS	

Location of Point(s) of Diversion

BOISE RIVER	L2 (SW1/4SE1/4)	Sec. 25, Twp 05N, Rge 05W, B.M.
CANYON County		
BOISE RIVER	NW1/4NW1/4	Sec. 25, Twp 05N, Rge 05W, B.M.
CANYON County	(Injection)	

Place of Use

MITIGATION Within CANYON County

T05N R05W S23	NWNE	T05N R05W S23	SWNE
T05N R05W S23	SENE	T05N R05W S23	NENW
T05N R05W S23	SENW	T05N R05W S23	NESE
T05N R05W S23	SESE	T05N R05W S24	NESW
T05N R05W S24	NWSW	T05N R05W S24	SWSW
T05N R05W S24	SESW	T05N R05W S24	SWSE

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-33497 V1

1. S49 Diversion for mitigation under this water right prior to April 1 and after October 31 shall occur only when the natural flow in 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 be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
2. 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.
3. This right is diverted from the Boise River in the SWSE, S25, Twp. 5N, Rge. 5W, and injected into Sand Hollow Creek in the NWNW, S. 25, Twp. 5N, Rge. 5W for mitigation of Sand Hollow Creek Right Nos. 63-3201 and 63-9744.

Remarks:

Comments:

1. jshurte 5/21/2012 Disallowal

Comment: This claim was filed as a part of the settlement of the Andrews Ditch Co. water rights. The Stewart decree rights totaled 26.7 cfs and the ditch was measured in 2008 at 40 cfs. Each member of the ditch then filed b/u claims to make up the difference. I requested proof that the ditch was flowing 40 cfs at the time the Stewart decree was finalized because these are b/u claims and evidence of priority is needed especially where the Stewart decree had just been completed decreeing a certain amount. Evidence was requested and none submitted so this right is being disallowed. See comments in 63-33590 also.

2. jshurte 5/29/2012 Recommendation

Comment: Evidence in the form of two affidavits from individuals still living was submitted on 5-21-2012 which dated back to 1964. The priority for the first day of the irrigation season was given 3-1-1964. The original priority date claimed was one day after the Stewart Decree or 1/19/1906. I requested evidence that the ditch was able to carry this amount dating back to 1906 and received the above mentioned affidavits. This right is a part of a settlement between Tree Top Ranches, Obendorf, Iest and Hauck. A measurement was conducted by SPF Water engineering on 11-19-2008 on the Andrews ditch. With the ditch full 40 cfs was being diverted. The water rights decreed in 1906 from the Stewart Decree total 26.7 cfs. The parties then filed beneficial use claims on the remaining 13.3 cfs in order to keep the system running as it has historically been. There was mention of Boise River rights for E G Johnson aka Right Nos 63-180, 63-181 and 63-33406 which have been recommended as mitigation for Sand Hollow creek right nos. 63-4036A and B. These rights date back to 1938 when the diversion of 63-180 et al from the Boise River Andrews ditch was ceased and 63-4036A and B represent the beginning of diverting Sand Hollow Creek water instead of the Boise River water for the same lands due to better irrigation methods and more available flow in Sand Hollow Creek from increased irrigation of surrounding lands and increased wastewater into Sand Hollow Creek. The thought is that when the flow was reduced from the Andrews ditch by E G Johnson ceasing diversion in 1938 then that would be the priority date justification for that amount of water remaining in the Andrews ditch. However that amount of water is 9.5 cfs and not 13.3 cfs so the 1964 affidavits were used. An objection will likely be filed on this and the other rights 63-33498, 63-33499 and 63-33590. This comment will be a reference for all of these rights.

3. jshurte 5/31/2012 CFS per acre

Comment: This right is for mitigation for irrigation. However, if you add up all the cfs for the Boise River mitigation rights plus the Sand Hollow Creek Right Nos. 63-3201 and 63-9744 the cfs per acre for 254 acres is .03 cfs per acre. The Hubble analysis allows for .06 cfs for this area. This Hubble was done for the Haas ditch company in this area and used in the original recommendations for the Andrews Ditch Co. The acres are still limited to the 254 acres now irrigated from the Sand Hollow Creek rights 63-3201 and 63-9744.



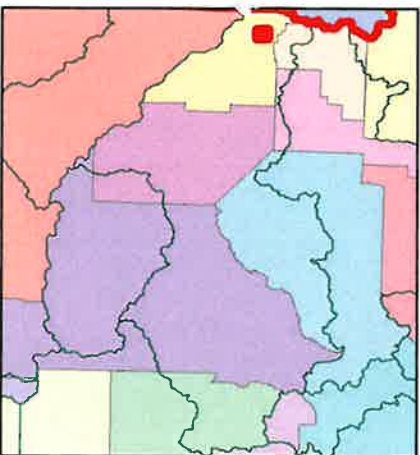
Idaho Department of Water Resources

Adjudication Recommendation

63-33497

(MITIGATION)

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



Canyon County
IDWR Basin 63



T05N

R05W



Prepared by Shurte, Jan
On May 30, 2012
1987/88 Aerial Photography

Shurte, Jan

From: Hofstetter Law Office [Dana@IdahoWaterLaw.com]
Sent: Monday, May 21, 2012 8:11 PM
To: Shurte, Jan
Subject: Re: Late Claim Nos. 63-33497 - Obendorf, 63-33498 - Iest, 63-33499 - The Drake LLC
Attachments: Greg Obendorf Affidavit.pdf; Tidwell Affidavit.pdf

Jan:

In response to your request, I attach Affidavits of Greg Obendorf and David Tidwell, documenting use of a full Andrews Ditch back to the early 1960's based on their personal observations. Unfortunately, it is difficult, based on the witnesses currently available, to document this beneficial use any earlier than that. I do note, however, that the Johnson right nos. 63-33406 (based on a portion of 63-160), 63-180 and 63-181 which were originally decreed in the Stewart Decree from the Andrews Ditch appear to support a priority date of about 1938 for the beneficial use rights from the Andrews Ditch. As you know, 63-33406, 63-180, and 63-181 were decreed in the SRBA as accomplished transfer rights for mitigation of 63-4036A&B, 63-28751 and 63-32394 which have 1938 priorities. Thus, this indicates that as of 1938, 63-33406, 63-180 and 63-181 (amounting to 9.5 cfs) would have been left in the River for mitigation and this additional capacity in the Andrews Ditch would have been available for the diversion and delivery of the beneficial use rights from the Andrews Ditch. The portion of Greg Obendorf's Affidavit indicating that the old headgate for the branch of the Andrews Ditch, leading to his property, appeared to date at least to the 1930's would also suggest that as of the 1930's the Andrews Ditch was run as full as possible back at least to the 1930's to serve the branches of the Ditch and the respective lands. Please let me know, if you have any questions or need any additional information.

Thank you,
Dana

On 3/23/2012 12:56 PM, Shurte, Jan wrote:
Hi Dana,

I am in the process of reviewing the beneficial use late claims for the Andrews ditch in preparation for the April 30th due date. The above b/u late claims are claiming a 1/19/1906 priority date for a total of 6.52 cfs over and above the amount decreed for the Andrews ditch in the Stewart Decree.

In order to recommend this priority date I will need some evidence of priority that could document that this additional amount of water was being diverted in 1906. This can be in the form of affidavits, documentation of who spoke of this amount of water to necessitate the filing, newspaper articles, historical articles, just about anything will help. We know the ditch diverts more than it's decreed rights at this time, so I am looking for some kind of idea as to why we can go back to 1906.

If you have any questions concerning this request, please feel free to contact me.

Jan Shurte
Adjudication Technical Analyst
Idaho Dept of Water Resources
322 E Front St
Boise, Idaho 83720
(208) 287-4992

PROOF OF 1967 priority

Dana L. Hofstetter, ISB #3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, Idaho 83702
Telephone (208) 424-7800
Facsimile: (208) 424-8774
Email: Dana@IdahoWaterLaw.com

Attorney for Greg and Ann Obendorf,
The Tina Iest Family L.L.L.P., and
THEDRAKE LLC

**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 Nos. 63-33497, 63-33498,
Case 39576	)	63-33499 and 63-33590
	)	
	)	AFFIDAVIT OF GREG OBENDORF
	)	
_____	)	

STATE OF IDAHO)
) ss:
COUNTY OF CANYON)

Greg Obendorf, being first duly sworn on oath, deposes and says:

(1) I was born in 1955 and grew up in the Parma, Idaho area. I recall at age 12, hunting ducks on what is now the Canyon County, Idaho property owned by The Tina Iest Family L.L.L.P through which the Andrews Ditch runs (hereinafter the "Iest Property").

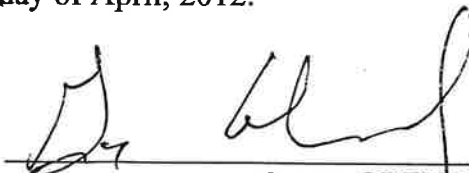
(2) My wife and I purchased property adjacent to the Iest Property in March 1987. Since that time, I have resided adjacent to the Iest Property and have also leased and farmed the Iest Property since about 1988.

(3) The Andrews Ditch on the Iest Property was full when I first recall seeing it when I was 12 years old. Based on what I have observed since then, it always has been operated full during the irrigation season. The capacity of the Andrews Ditch has remained the same over the period of time from when I was 12 until the present.

(4) The branch of the Andrews Ditch delivering water to Sand Hollow Creek on my property had a headgate that was very old at the time I purchased my property in 1987, appearing at least 40-50 years old at that time. It was so old that I replaced it a couple of years ago. The presence of this old headgate confirmed that this branch of the Andrews Ditch had existed for quite some time

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 25th day of April, 2012.



GREG OBENDORF

SUBSCRIBED AND SWORN to before me this 25th day of April, 2012.





Notary Public in and for the State of Idaho
Residing at: Parma, ID
My Commission Expires: 8-9-12

1964

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

)
)
)
)
)
)
)

Case 39576

AFFIDAVIT OF DAVID TIDWELL

)

) **SS:**

(1) I am married to Helen Tidwell, the General Partner of the The Tina Iest Family L.L.L.P which owns property through which the Andrews Ditch in Canyon County, Idaho runs (hereinafter the "Test Property").

(2) My father-in-law, Helen Tidwell's father, purchased the Iest Property in September, 1962 from Lester Yaackel.

(3) I recall my father-in-law showing me the Iest Property within the year or two after he purchased it. During that tour of the Iest Property which was during the irrigation season, I remember being impressed with the amount of water available to the Iest Property. In particular, I recall the Andrews Ditch on the Iest Property being brimming full during that tour. Based on what I have observed since then, up to the present, the Andrews Ditch always has been operated full during the irrigation season.

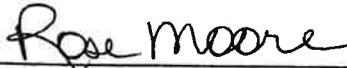
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 23 day of April, 2012.



DAVID TIDWELL

SUBSCRIBED AND SWORN to before me this 23rd day of April, 2012.



Notary Public in and for the State of Idaho

Residing at: Boise - Ada County

My Commission Expires: 12-06-2016

ROSE MOORE
NOTARY PUBLIC
STATE OF IDAHO



MEMORANDUM

DATE: December 5, 2008
TO: William Mulder
FROM: Scott King
CC: Scott Campbell
RE: November 19, 2008 Andrews Ditch Discharge Measurements

On November 19, 2008, discharge in Andrews Ditch was measured at three locations. Flow was measured with SPF's Pygmy current meter¹ mounted on a top-setter rod with data collected on a JBS Instruments' AquaCalc™ Pro. Measurements are summarized in Table 1 and depicted on the attached map.

Measurement Details

Location 1: A discharge of 40 cfs was measured about 340 feet downstream of point of diversion from Boise River. Although flow conditions were good with steady, even velocities, the ditch has some minor weedy vegetation and significant loose sediment deposits on the channel sides, with a harder sand bottom at mid-channel. Channel bottom conditions were better upstream, but flow conditions were not as good with unsteady, turbulent flows. Recommendations for future measurements include trying to identify an upstream point with less sediment and acceptable flow conditions, and/or using a rake or other tools to dislodge sediment and vegetation prior to measurement. Verticals were measured at 1 foot distances (in general) across the channel with single-point measurements (at 0.6 x depth) at shallow verticals and three-point measurements (at 0.2, 0.6, and 0.8 x depth) when depths exceeded 2 feet. Accuracy would generally be considered within 5% or better due to the many point measurements, but is estimated at +/- 5 to 10% because of the soft channel bottom and resulting difficulty in placing the current meter at the appropriate depth.

Location 2: A culvert pipe conveys flow from Andrews Ditch to an adjacent slough to the west. Because flow exiting the culvert was diffused, current-meter measurement would be quite difficult and was not attempted. Visual approximations were used to estimate a discharge of about 10 cfs. The culvert pipe size appeared to be between 18 and 24 inches in diameter, but size was not easy to confirm because the pipe has been deformed and was

nearly submerged. Review of culvert flow nomographs tend to confirm the 10 cfs discharge approximation. Estimates on discharge can be improved by confirming culvert diameter, length, and type and inspecting condition when the canal is dry. Flows could be measured with a current meter if the channel below culvert discharge was modified to create a single, defined channel for a distance of about 10 to 15 feet.

Loc ID	Location Description	Discharge (cfs)	Estimated Accuracy	Notes
1	340 ft below Boise River Point of Diversion (43.735476N, 116.879357W)	40	+/- 5 to 10%	Soft channel bottom on edges, some weeds. Discharge measured with current meter.
2	Culvert overflow to slough, about 0.9 miles below POD (43.744186N, 116.888575W)	10 (est)	+/- 50%	Visual estimate and culvert-equation discharge approximations.
3a	Discharge passing first turnout, about 1.2 miles below POD (43.74654N, 116.891898W).	15.3	+/- 10%	Measured flow passing through "notch" in concrete check structure with current meter.
3b	Overflow to Sand Hollow Creek	6.9	+/- 10%	Discharge over check boards measured with contracted rectangular weir equation, L = 3.25 ft, H = 0.77 ft.
4	Andrews Ditch at Tree Top Ranch about 75 feet below highway culvert (43.748314N, 116.912791W).	13.1 cfs	+/- 3 to 5%	Discharge measured with current meter. Good location and flow conditions.

Table 1: Summary of Andrews Ditch Discharge Measurements.

Location 3: A discharge of 15.3 cfs was passing through the first check structure and continuing down Andrews Ditch. The current meter measurements were taken in the rectangular "notch." Although this location was not ideal as flows were converging into the notch from the sides and bottom, it appeared to be the best available location for

¹ Gurley Precision Instruments, Model No. 625, Serial No. AR2072.

measurement. Depths in the ditch below the check were too great for safe wading. The notch was 4.6 feet wide, and verticals were taken using the three-point method at 0.5 foot distance increments. Flow depth was 2 feet. A tarp dam was being used to prevent flow from entering the concrete ditch on the north side. Overflow from the ditch to Sand Hollow Creek was flowing over check boards and this discharge is estimated at 6.9 cfs using the contracted rectangular weir formula for a crest length of 3.25 feet and flow depth of 0.77 feet. Although flow was freely discharging over the check structure, the structure is not a "standard" contracted rectangular weir and therefore accuracy is somewhat questioned and estimated at +/- 10%. Although it appears from the downstream side that a low-level "notch" allows additional flow to pass under the check, this notch was probed with a long steel bar found at the site. This probing indicated that the notch is plugged and I could not find any sign of significant flow discharging below the check boards.

Location 4: A discharge of 13.1 cfs was measured in Andrews Ditch as it enters Tree Top Ranches property using the current meter. Verticals were measured at 0.5 foot distances with single-point (0.6 x depth) methods. Accuracy of this measurement is expected to be "good." Flow was even and steady and channel conditions were acceptable.

Conveyance Losses / Unaccounted Flow

Assuming that the measurement of 15 cfs passing the first check structure is reasonably accurate, it appears that losses and/or diversions from the ditch from this point to Tree Top Ranches were approximately 2 cfs as 13 cfs was measured entering the property.

There appears to be more significant unaccounted-for water losses and/or inaccurate measurements or estimates above the first check structure. The total flow at the first check structure was 22 cfs. About 10 cfs was being discharged at the upstream culvert. With 40 cfs measured at the most upstream point, about 8 cfs remains unaccounted for. All or a portion of this 8 cfs may be associated with a combination of conveyance losses, measurement inaccuracies, and incorrect estimates of culvert flow.



Shurte, Jan

From: Hofstetter Law Office [Dana@IdahoWaterLaw.com]
Sent: Thursday, April 26, 2012 2:37 PM
To: Shurte, Jan; Courtney, Andrea
Cc: AJW@moffatt.com
Subject: Re: Late Claim Nos. 63-33497 - Obendorf, 63-33498 - Iest, 63-33499 - The Drake LLC

Jan and Andrea:

I have obtained 2 Affidavits in connection with this matter. I would like to provide this information prior to the April 30 submission of the Director's Reports to the SRBA Court. However, I understand that Jan remains out of the office. Please advise how and to whom I should submit this information.

Thank you,
Dana

On 3/23/2012 12:56 PM, Shurte, Jan wrote:
Hi Dana,

I am in the process of reviewing the beneficial use late claims for the Andrews ditch in preparation for the April 30th due date. The above b/u late claims are claiming a 1/19/1906 priority date for a total of 6.52 cfs over and above the amount decreed for the Andrews ditch in the Stewart Decree.

In order to recommend this priority date I will need some evidence of priority that could document that this additional amount of water was being diverted in 1906. This can be in the form of affidavits, documentation of who spoke of this amount of water to necessitate the filing, newspaper articles, historical articles, just about anything will help. We know the ditch diverts more than it's decreed rights at this time, so I am looking for some kind of idea as to why we can go back to 1906.

If you have any questions concerning this request, please feel free to contact me.

Jan Shurte
Adjudication Technical Analyst
Idaho Dept of Water Resources
322 E Front St
Boise, Idaho 83720
(208) 287-4992

Shurte, Jan

From: Shurte, Jan
Sent: Friday, March 23, 2012 12:57 PM
To: 'Dana Hofstetter'
Subject: Late Claim Nos. 63-33497 - Obendorf, 63-33498 - Iest, 63-33499 - The Drake LLC

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Jan Shurte

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State of Idaho

DEPARTMENT OF WATER RESOURCES

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August 23, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

DANA HOFSTETTER
HOFSTETTER LAW OFFICE LLC
608 W FRANKLIN ST
BOISE ID 83702

Re: Snake River Basin Adjudication (SRBA)
Late Notice of Claim to a Water Right No. 63-33497

Dear Dana:

The Notice of Claim you filed on behalf of Greg & Ann Obendorf has been received from the SRBA Court. I have enclosed Receipt No. C093599 for the filing fees you paid. Please retain the receipt for your records.

The Notice of Claim will be investigated and reported to the Court in a future supplemental Director's Report. If you have any questions, please feel free to contact our office.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Lori Harris', is written over a faint, circular official stamp.

Lori Harris
Technical Records Specialist 2
Adjudication Section

LH:l
Enclosure