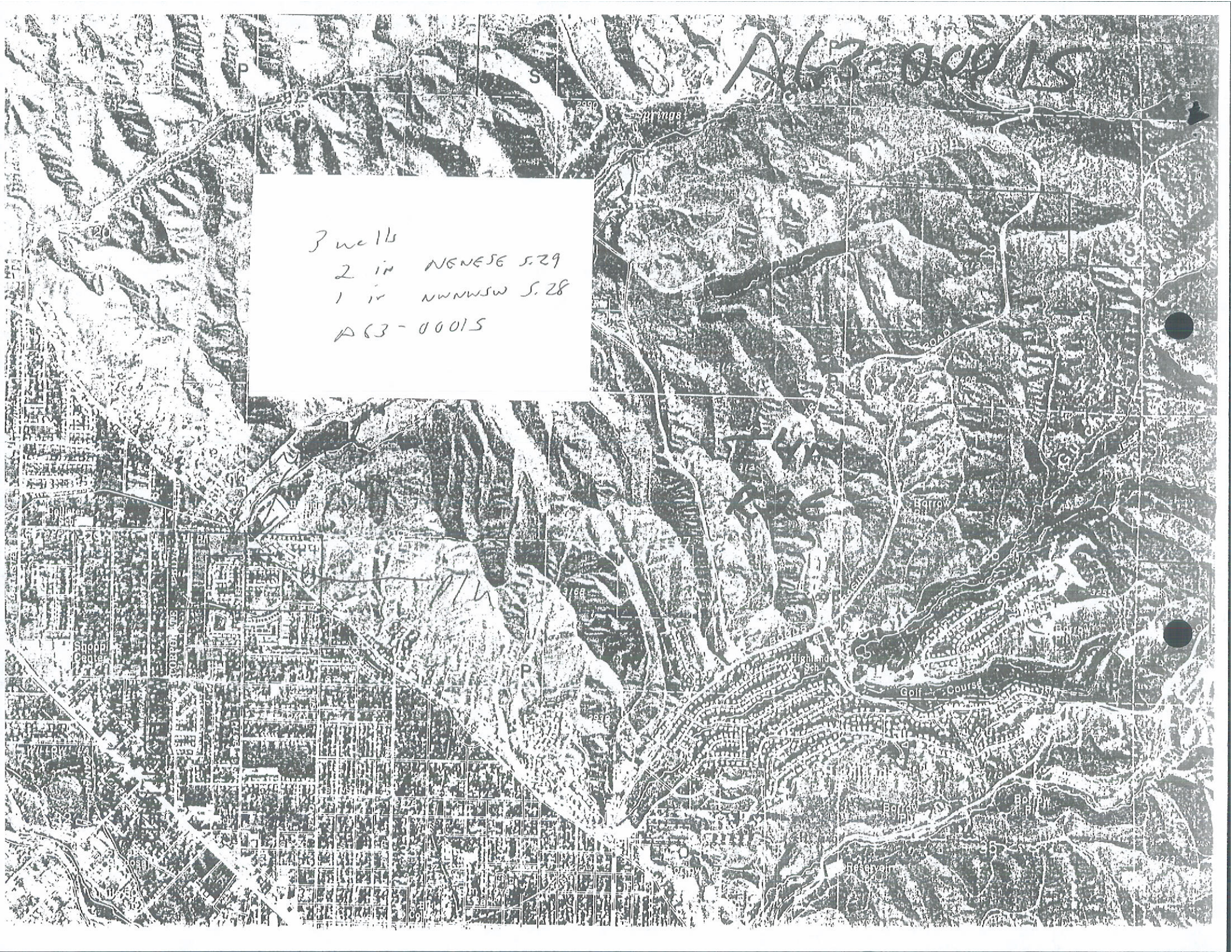


A63-00015

3 wells
2 in NENESE S.29
1 in NWNWSW S.28
A63-00015

TEWA
RUE





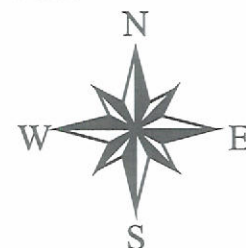
State of Idaho
Idaho Department of Water Resources
Western Region

T4N R2E SECTIONS 22, 28 and 29
Water Right (s): 63-12, 63-13 and 63-15



1320 0 1320 2640 3960 5280 Feet

TOTAL IRRIGATED ACRES = 15



-  Point of Diversion
-  Place of Use
-  Section Lines
-  Quarter Quarter Lines

GIS Place of Use Illustration
2003 Photography
Prepared By: Vicky Music
Date: May 2005

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

AMENDED

Ident. Number 63-15
Date Received: 8/18/1989
Receipt No: W004644
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

THE TERTELING CO INC Phone: (208)338-5200
3823 N 36TH ST
BOISE ID USA 83703

2. Date of Priority: 03/23/1927

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	02E	28	NW NW SW	ADA	
04N	02E	29	NE NE SE	ADA	
04N	02E	29	NE NE SE	ADA	
04N	02E	22	NW NW SW	ADA	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From To	C.F.S.	(or) A.F.A
IRRIGATION	01/01 12/31	0.8	38
COMMERCIAL	01/01 12/31	0.8	400
HEATING	01/01 12/31	0.8	400
DOMESTIC	01/01 12/31	0.04	0.6
AESTHETIC	01/01 12/31	0.8	400

7. Total Quantity Appropriated is:
0.8 C.F.S. and/or 400 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

Number of homes: 1

Number of other uses: Business offices in house

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	02E	22	NE	SW	DOMESTIC	
			SE	SW	DOMESTIC	
			NE	SW	IRRIGATION	7
			SE	SW	IRRIGATION	0.5
			NE	SW	HEATING	
			SE	SW	HEATING	
Section Acres						7.5
04N	02E	29	NE	SE	HEATING	
			NE	SE	IRRIGATION	7.5
			NE	SE	DOMESTIC	
Section Acres						7.5
Total Acres						15

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

Attorney name updated. Removed Givens Pursley and added Charlie Honsinger per notification from Charlie Honsinger. DB 3/1/2004

Commercial and aesthetic uses are claimed pursuant to Idaho Code 42-1425.

Claim amended per claimant request 3/17/04.

Right 63-15 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.

Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.

The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.

Water under Right 63-15 shall not be diverted or allowed to flow pending further direction from the court as described under the Silkey v. Tiegs decree dated 06-13-1930.

Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.

Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.

Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.

The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.

Diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing a priority date earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells recognized in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWRs own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.

Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.

Use of water under this right may be affected by an agreement between the protestant and the right holder.

Irrigation use is for inside commercial greenhouses and outside irrigation.

Domestic use is for business offices.

The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

15. Basis of Claim: Decreed

RECEIVED

MAR 17 2004

WATER RESOURCES
WESTERN REGION

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-00015

Date Received

Receipt Number

AMENDED
NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) The Terteling Company, Inc. Phone (208) 338-5200

Mailing Address 3823 N. 36th Street, Boise, ID Zip 83703

2. Date of Priority (Only one (1) per claim) 03/23/1927

3. Source of water supply (a) Ground Water
which is tributary to (b) _____

4. a. Location of existing point of diversion is: Township 04N Range 02E Section 22,
NW 1/4 of NW 1/4 of SW 1/4, Govt. Lot, _____ B.M., County of Ada

Additional points of diversion if any: T04N, R02E, Section 28, NWNWSW; Section 29 NENESE
(2 PODs in NENESE)

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. 4 Deep wells diverting low
temperature geothermal water under artesian pressure into pipelines.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 01/01 to 12/31 amount 0.80 or 38.0

For Domestic purposes from 01/01 to 12/31 amount 0.04 or 0.6

For Heating purposes from 01/01 to 12/31 amount 0.80 or 400.0

For Commercial purposes from 01/01 to 12/31 amount 0.80 or 400.0

Aesthetic 01/01 12/31 0.80 400.0

7. Total quantity claimed (a) 0.80 (cfs) and/or (b) 400.0 (acre feet)

8. Total consumptive use claimed is N/A acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Domestic - 1 home; Heating - greenhouses, offices, homes; Commercial - use in greenhouses.

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
04N	02E	22									7.0			.5					7.5
04N	02E	29													7.5				7.5

* All uses claimed occur in same 1/4 1/4. Total number of acres irrigated 15 sections as irrigation uses.

11. In which county (ies) are lands listed above as place of use located? Ada

12. Do you own the property listed above as place of use? Yes X No
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
63-00012; 63-00013; 63-31051 or None ()

14. Remarks:
Commercial and aesthetic uses are claimed pursuant to
I.C. §42-1425

Last Name Ident No.

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X

If applicable provide IDWR Water Right Number _____
Court Ada County Case Number 11748 Decree Date 06/30/1930
Plaintiff vs Defendant Silkey v. Tiegs

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____
wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.

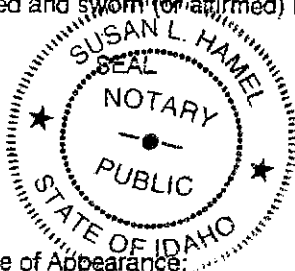
Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ President
of _____ Title
The Terteling Company Inc. _____, that I have signed the foregoing
document in the space below as _____ President of The Terteling Company Inc.
_____ Title _____ Organization _____
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature]
Title and Organization President, The Terteling Company Inc. Date 9 March 04

State of Idaho/or Idaho)
County of Ada) ss.

Subscribed and sworn (or affirmed) before me this 9th day of March 18 2004



Notary Public Susan L. Hamel
Residing at Ada County, Kuna, ID
My Commission Expires 03/27/2008

Please Print Name

17. Notice of Appearance

Notice is hereby given that I, Charles L. Honsinger will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.

Signature Charles L. Honsinger
Address P.O. 2773, Boise ID 83701
Date 03/15/04

Last Name _____ Ident. Number _____

WATER RIGHT NO. 63-15
As Modified by Transfer No. 68558

In accordance with the approval of Transfer No. 68558, Water Right No. 63-15 is now described as follows.

Right Holder: THE TERTELING COMPANY INC
 3823 N 36TH ST
 BOISE ID 83703

Priority Date: 03/23/1927

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DOMESTIC	01/01	12/31	0.04 CFS	0.6 AF /
IRRIGATION	01/01	12/31	0.80 CFS	38.0 AF /
HEATING	01/01	12/31	0.80 CFS	400.0 AF /
			0.80 CFS	400.0 AF /

*See Amend
 10/2002*

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWNWSW Sec. 22 Twp 04N Rge 02E ADA County
GROUND WATER	NWNWSW Sec. 28 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County

PLACE OF USE: DOMESTIC & HEATING

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02E 22									X				X				
04N 02E 29																X	

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	
04N 02E 22									7.0			.5					7.5
04N 02E 29													7.5				7.5

Total Acres: 15

WATER RIGHT NO. 63-15
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

Right 63-15 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.

2. Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.

3. The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.

4. Water under Right 63-15 shall not be diverted or allowed to flow pending further direction from the court as described under the Silkey v. Tiegs decree dated 06-13-1930.

5. ~~Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.~~

6. Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.

7. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

8. Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.

9. The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.

10. Diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing a priority date earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells recognized in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWRs own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.

VLM

WATER RIGHT NO. 63-15
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

11. Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.
12. Use of water under this right may be affected by an agreement between the protestant and the right holder.
13. Irrigation use is for inside commercial greenhouses and outside irrigation.
14. Domestic use is for business offices.
15. The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.
16. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
17. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
18. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 3rd day of June, 2002

[Signature]
Chief, Water Allocation Bureau

RECEIVED

JUN 05 2002

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 68558

This is to certify that: THE TERTELING COMPANY INC

3823 N 36TH ST

BOISE ID 83703

(208)338-5200

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acres	Total	Source
63-12	AJC/Decreed	07/01/1921	0.14 cfs			7.5	GROUND WATER
63-13	AJC/Decreed	07/01/1922	0.66 cfs			7.5	GROUND WATER
63-15	AJC/Decreed	03/23/1927	0.80 cfs			7.5	GROUND WATER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
63-12	NO	NO	YES	YES	NO	NO
63-13	NO	NO	YES	YES	NO	NO
63-15	NO	NO	YES	YES	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
63-12	63-12	0.14 cfs	101.4 af	6.0	15.0		N/A	N/A	N/A	N/A
63-13	63-13	0.66 cfs	400.0 af	6.0	15.0		N/A	N/A	N/A	N/A
63-15	63-15	0.80 cfs	400.0 af	6.0	15.0		N/A	N/A	N/A	N/A
TOTALS		0.86 cfs	400.0 af	6.0	15.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 3rd day of June, 2002

RECEIVED

JUN 10 2002

Department of Water Resources


 Chief, Water Allocation Bureau

RECEIVED

OCT 02 2000

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

RECEIVED

DEC 20 2000

WATER RESOURCES
WESTERN REGION

Name of applicant The Terteling Company, Inc. ("Terteling") Phone 208-388-5200
 Post Office Address 3823 N. 36th Street, Boise, Idaho, 83703
 Contact/Counsel: John M. Marshall, Givens Pursley LLP, P.O. Box 2720, Boise, ID 83701-2720

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes:

TERTELING SEEKS TO ADD ALTERNATE POINTS OF DIVERSION TO EXISTING DECREED GEOTHERMAL WATER RIGHT SO THAT IT CAN USE THESE WATER RIGHT FOR THE SAME PURPOSES AT AN ALTERNATE LOCATION. PLEASE SEE EXHIBIT A FOR A MORE DETAILED EXPLANATION OF THIS TRANSFER.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount	Nature of Use	Period of Use:	
<u>63-00012</u>	<u>07/01/1921</u>	<u>0.14 cfs</u>	<u>IRRIGATION</u>	<u>1/1</u>	to <u>12/31</u>
		<u>0.14 cfs</u>	<u>STOCKWATER</u>	<u>1/1</u>	to <u>12/31</u>
		<u>0.14 cfs</u>	<u>HEATING</u>	<u>1/1</u>	to <u>12/31</u>
		<u>0.14 cfs</u>	<u>DOMESTIC</u>	<u>1/1</u>	to <u>12/31</u>
<u>63-00013</u>	<u>07/01/1922</u>	<u>0.66 cfs</u>	<u>IRRIGATION</u>	<u>1/1</u>	to <u>12/31</u>
		<u>0.66 cfs</u>	<u>STOCKWATER</u>	<u>1/1</u>	to <u>12/31</u>
		<u>0.66 cfs</u>	<u>HEATING</u>	<u>1/1</u>	to <u>12/31</u>
		<u>0.66 cfs</u>	<u>DOMESTIC</u>	<u>1/1</u>	to <u>12/31</u>
<u>63-00015</u>	<u>3/23</u> <u>07/01/1927</u>	<u>0.80 cfs</u>	<u>IRRIGATION</u>	<u>1/1</u>	to <u>12/31</u>
		<u>0.80 cfs</u>	<u>STOCKWATER</u>	<u>1/1</u>	to <u>12/31</u>
		<u>0.80 cfs</u>	<u>HEATING</u>	<u>1/1</u>	to <u>12/31</u>
		<u>0.80 cfs</u>	<u>DOMESTIC</u>	<u>1/1</u>	to <u>12/31</u>

2. Total amount of water being transferred 1.6 cubic feet per second and/or _____ acre feet per annum

3. Source of water GROUND WATER tributary to _____

AMENDED

initials & date

mm 12/18/00
initials & date

4. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp	Rge	County	Local name for diversion
	NW	NW	SW	28	4N	2E	ADA	Pit Well
	NE	NE	SE	29	4N	2E	ADA	Shed Well
	NE	NE	SE	29	4N	2E	ADA	House Well
	NW	NW	SW	22	4N	2E	ADA	Windsock Well

5. Lands irrigated or place of use

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	2E	29													7.5				7.5
4N	2E	22								7				.5					7.5
4N	2E	29													S,H,D				
4N	2E	22								S,H,D				S,H,D					

6. General Information

TOTAL 7.5

a. Description of diversion system:

EXISTING GREENHOUSES, AN OFFICE BUILDING AND A GARAGE ARE HEATED AND IRRIGATED BY THREE INTERCONNECTED GEOTHERMAL WELLS. AN EXISTING GEOTHERMAL WELL, KNOWN AS THE WINDSOCK WELL, WILL BE USED TO SUPPLY WATER FOR THE SAME PURPOSES IN NEW GREENHOUSES AND A SHOP IN SECTION 22.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? NO If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes. NOT APPLICABLEc. Describe the effect on the land now irrigated if the place of use is changed pursuant to this transfer: IRRIGATION OCCURS INSIDE AND OUTSIDE OF GREENHOUSES. THE EXISTING GREENHOUSES MAY BE REDUCED IN SIZE AND POTENTIALLY REMOVED.d. Remarks: PLEASE SEE EXHIBIT A

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Right Nos. _____ and said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 20____.

PART 2**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by

- a. Decree No. CASE NO. 11748 decreed to FRANCES SILKEY in case of FRANCES SILKEY vs. H.W. TIEGS, THOMAS F. EDWARDS AND J. RYAN dated JUNE 13, 1930 in THIRD DISTRICT COURT county of ADA. THIS RIGHT IS LISTED AS WATER RIGHT 36-00012 IN THE DEPARTMENT'S RECORDS. 63

- b. Transfer No. 268

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label Document as Exhibit B. Check appropriate box:

☐ Tax Notice☒ Warranty Deed☐ Other _____3. Source of water GROUND WATER tributary to _____4. Date or priority 07/01/19215. Water is used for the following purpose: irrigation, stock, domestic, heating and other. *ok per decree*6. Total amount of water under right(s) 0.14 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp	Rge	County	Local name for diversion
	NW	NW	SW	28	4N	2E	ADA	Pit Well
	NE	NE	SE	29	4N	2E	ADA	Shed Well
	NE	NE	SE	29	4N	2E	ADA	House Well

8. Lands irrigated or place of use: THE PLACE OF USE FOR ALL USES IS IN THE NESE OF TOWNSHIP 4N, RANGE 2E, SECTION 29. *and SENE 5.29*

9. Describe any other water rights used for the same purpose as described above:

63-00013 and 63-00015.10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe _____**B. Description of Portion of Right Being Transferred**NOT APPLICABLE**C. Description of Unchanged Portion of Right**NOT APPLICABLE

PART 2**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by

- a. Decree No. CASE NO. 11748 decreed to FRANCES SILKEY in case of FRANCES SILKEY vs. H.W. TIEGS, THOMAS F. EDWARDS AND J. RYAN dated JUNE 13, 1930 in THIRD DISTRICT COURT county of ADA. THIS RIGHT IS LISTED AS WATER RIGHT 36-00013 IN THE DEPARTMENT'S RECORDS. 63

b. Transfer No. 268

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label Document as Exhibit B. Check appropriate box:

☐ Tax Notice☒ Warranty Deed☐ Other _____

3. Source of water GROUND WATER tributary to _____

4. Date or priority 07/01/1922

5. Water is used for the following purpose: irrigation, stock, domestic, heating and other. *ok per decree*

6. Total amount of water under right(s) 0.66 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp	Rge	County	Local name for diversion
	NW	NW	SW	28	4N	2E	ADA	Pit Well
	NE	NE	SE	29	4N	2E	ADA	Shed Well
	NE	NE	SE	29	4N	2E	ADA	House Well

8. Lands irrigated or place of use: THE PLACE OF USE FOR ALL USES IS IN THE NESE of TOWNSHIP 4N, RANGE 2E, SECTION 29. *and JUNE 5, 29*

9. Describe any other water rights used for the same purpose as described above:

63-00012 and 63-00015.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe _____

B. Description of Portion of Right Being Transferred

NOT APPLICABLE

C. Description of Unchanged Portion of Right

NOT APPLICABLE

PART 2**A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by

- a. Decree No. CASE NO. 11748 decreed to H.W. TIEGS in case of FRANCES SILKEY vs. H.W. TIEGS, THOMAS F. EDWARDS AND J. RYAN dated JUNE 13, 1930 in THIRD DISTRICT COURT county of ADA. THIS RIGHT IS LISTED AS WATER RIGHT 36-00015 IN THE DEPARTMENT'S RECORDS. ⁶³

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label Document as Exhibit B. Check appropriate box:

☐ Tax Notice☒ Warranty Deed☐ Other _____

3. Source of water GROUND WATER tributary to _____

4. Date or priority 03/23/1927

5. Water is used for the following purpose: irrigation, stock, domestic, heating and other. *Not OK per decree*

6. Total amount of water under right(s) 0.80 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion

Lot	¼	¼	¼	Sec.	Twp	Rge	County	Local name for diversion
	NW	NW	SW	28	4N	2E	ADA	Pit Well

8. Lands irrigated or place of use: THE PLACE OF USE FOR ALL USES IS IN THE NWSW of TOWNSHIP 4N, RANGE 2E, SECTION 28.

9. Describe any other water rights used for the same purpose as described above:

63-00012 and 63-00013

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe _____

B. Description of Portion of Right Being Transferred

NOT APPLICABLE

C. Description of Unchanged Portion of Right

NOT APPLICABLE

PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

PLEASE SEE EXHIBIT C.

B. CHANGES IN NATURE OF USE

1. New nature of use, amount, hours/days/years, period of use:

NOT APPLICABLE.

2. Quantity and quality of return flows and location of discharge:

NOT APPLICABLE.

3. Describe effects on other water uses resulting from the proposed change:

NOT APPLICABLE.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.



J.L. Terteling, President.

Subscribed and sworn to before me this 19th day of September, 2000.


(Notary Public)

My commission expires 3/22/2002

Page 8 of 8

Transfer No. _____

FOR DEPARTMENT USE ONLY

Transfer contains 8 pages and 3 attachments

Received by ST Date 10-2-00 Protest by _____

Prelim. check by ST Fee 290⁰⁰ W027031

Receipted by ST Date 10-3-00

Published in THE IDAHO STATESMAN Copies of protest forwarded by _____

Pub. dates 12/7+14/00 -ST Hearing held by _____ Date _____

Watermaster recommendation request on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to line holder _____

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-15

WATER RIGHT NUMBER: 63-15

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	FLORA CO C/O JEFF JAYO 3823 N 36TH STREET BOISE, ID 83702 (208)344-3751
Original Owner	HUNT BROS FLORAL INC 3823 N 36 BOISE, ID 83703 (208)344-3751
Original Owner	H W TIEGS BOISE, ID 83703
Current Owner	THE TERTELING COMPANY INC 3823 N 36TH ST BOISE, ID 83703 (208)338-5200
Attorney	JEFFREY C FEREDAY GIVENS PURSLEY LLP 277 N 6TH ST #200 PO BOX 2720 BOISE, ID 83701-2720 (208)388-1200

Priority Date: 03/23/1927

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	1/01 to 12/31	0.030 CFS	
IRRIGATION	1/01 to 12/31	0.800 CFS	
DOMESTIC	1/01 to 12/31	0.040 CFS	
HEATING	1/01 to 12/31	0.800 CFS	
	<u>Total Diversion:</u>	0.800 CFS	

Location of Point(s) of Diversion

GROUND WATER	NW1/4NW1/4SW1/4	Sec. 28, Twp 04N, Rge 02E, B.M.
ADA County		
GROUND WATER	NE1/4NE1/4SE1/4	Sec. 29, Twp 04N, Rge 02E, B.M.
ADA County		

Place of Use

STOCKWATER

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-15

		<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
04N 02E	29													X				

IRRIGATION

Twp	Rge	Sec	<u>NE</u>				<u>NW</u>				<u>SW</u>				<u>SE</u>				<u>Totals</u>
04N	02E	28	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	1.5
													1.5						
04N	02E	29													6.0				6.0

Total Acres: 7.5

DOMESTIC

Twp	Rge	Sec	<u>NE</u>				<u>NW</u>				<u>SW</u>				<u>SE</u>				<u>Totals</u>
04N	02E	29	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	X

HEATING

Twp	Rge	Sec	<u>NE</u>				<u>NW</u>				<u>SW</u>				<u>SE</u>				<u>Totals</u>
04N	02E	29	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	X

Conditions of Approval:Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-15

1. General

NO WATER TO BE ALLOWED TO FLOW OR BE USED FROM TIEGS WELL UNTIL FURTHER NOTICE BY COURT.

O.L. MILSTEAD FILED A CHANGE IN P/D ON OTHER WELLS. PART OF DECREE GRANTED IN SILKEY V TIEGS WAS TRANSFERRED TO TIEGS WELL & WELL WAS REOPENED.

SEE TRANS. #268. EXPANSION OF P/U VIA PRESUMPTION CLAUSE. ADDED POINTS OF DIVERSION OCCUR AS TRANSFER IN CLAIM. HEATING IS 1 HOME AT 2 500 SQ-FT & GREENHOUSES AT 62,000 SQ-FT. IRRIGATION SEASON IS ALL YR. SINCE OCCURS IN GREENHOUSES.

TWO P/D IN NENESE S.29. ALL 3 WELLS HOT ARTESIAN WELLS.

ALSO SEE CLAIMS A63-00012 & A63-00013 FOR REVIEW PROCESS. NOTE THAT IRRIGATED ACRES NEED TO BE CLARIFIED IF RIGHT LEFT AS IRRIGATION. MAY NEED TO CHANGE USE TO COMMERCIAL TO ALLOW ALL YR. PERIOD OF USE. POSSIBLE THAT THIS RIGHT AND OTHER TWO RIGHTS MAY NEED TO HAVE CONDITIONS OF LIMITATIONS SINCE USES ARE ACTUALLY THE SAME FOR SAME ENTITIES. OWNERSHIP CHANGED BY RDH ON JANUARY 14, 1992.

RECEIVED

JUN 09 1999

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s): A63-00012, A63-00013, and A63-00015
 Adjudication Claim No(s): A63-00012, A63-00013, and A63-00015

2. The following REQUIRED information must be submitted with this form:

A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.

AND

B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)

OR

C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and address of Former Owner/Claimant Flora Company, c/o Jeff Jayo
3823 N. 36th Street, Boise, ID 83702
4. New Owner/Claimant(s) The Terteling Company, Inc.
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
 New Mailing Address 3823 N. 36th Street,
 City, State and ZIP Code Boise, Idaho 83703
 New Telephone Number (208) 338-5200
5. Date you acquired the property Feb. 14, 1997

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres you irrigate 6.1 Number and type of stock 0

Diversion rate in CFS 1.6 Number of homes 1 commercial office
 Other uses Approx. 63,000 sq feet of heated green house, green house irrigation and tropical fish propagation.

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner or Claimant(s) *J. A. Terteling* Date 6-7-99
PRESIDENT
8. For Snake River Basin Adjudication Claims: Please attach a notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims.

ADA CO. RECORDER
J. DAVID NAVARRO
BOISE ID
PIONEER TITLE
WARRANTY DEED

'92 FEB 14 PM 4 41

Warranty Deed made this 14 day of February, 1997, between Flora Co., an Idaho corporation, with its principal office at 3823 North 36th Street, in the City of Boise, County of Ada, State of Idaho (herein referred to as "Grantor"), and The Terteling Company, Inc., an Idaho corporation, with its principal office at 877 West Main Street, Suite 706, Boise, Idaho 83702 (herein referred to as "Grantee"), witnesseth:

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, and sold, and does, by these presents, grant, bargain, sell, and convey unto Grantee and its successors and assigns forever, all of that certain real property situated in the County of Ada, State of Idaho, more particularly described in Schedule I attached hereto and incorporated herein by this reference.

Together with all and singular the tenements, hereditaments, easements, rights and appurtenances thereunto belonging or in anywise appertaining (including, without limitation, all easements, rights and appurtenances described in Schedule II attached hereto and incorporated herein by this reference), the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and all estate, right, title, and interest in and to the property, as well in law as in equity.

To have and to hold, all and singular the above-described premises together with the appurtenances unto Grantee and its successors and assigns forever. And Grantor does hereby

Reviewed By: *[Signature]*

covenant to and with Grantee that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except those to which this conveyance is expressly made subject and those made, suffered or done by Grantee; and subject to easements, rights-of-way and restrictions, if any, of record and general taxes and assessments for the current year which are not yet due and payable, and Grantor and Grantor's successors and assigns shall and will warrant and by these presents forever defend the premises in the quiet and peaceable possession of Grantee, its successors and assigns against Grantor and Grantor's successors and assigns and against all and every person or persons whomsoever, lawfully claiming the same.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand on the day and year first above written.

GRANTOR:

Flora Co., an Idaho corporation

Donald P. Lee Pres

By: Daniel P. See

Its: President

(J:\8975.29\doc\warrrdd.1)

STATE OF IDAHO)
) ss.
County of Ada)

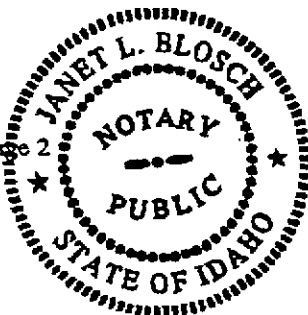
Elizabeth Fuller Sackett

On this 14th day of February, 1997, before me, the undersigned, a Notary Public in and for said state, personally appeared Daniel P. See*, known or identified to me to be the President and Secretary and Treasurer of Flora Co., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

WARRANTY DEED -
MM&C 8975.29 02/14/97

Page 2



Janet L. Bloch
Notary Public
Residing at Boise, Idaho
my commission expires
3-17-1999

SCHEDULE I

That portion of Section 29, Township 4 North, Range 2 East, Boise Meridian, in the County of Ada, State of Idaho, more particularly described as follows:

Commencing at the quarter section corner common to Sections numbered 28 and 29, in Township 4 North, Range 2 East, the REAL PLACE OF BEGINNING; thence South $0^{\circ}29'$ West a distance of 662.3 feet along the section line common to said Sections 28 and 29; thence North $89^{\circ}11'$ West, parallel to the East and West quarter section line of said Section 29, a distance of 657.4 feet; thence North $0^{\circ}39'$ East a distance of 662.3 feet, to the East and West quarter section line of said Section 29; thence South $89^{\circ}11'$ East, along said quarter section line, 656.5 feet to the PLACE OF BEGINNING.

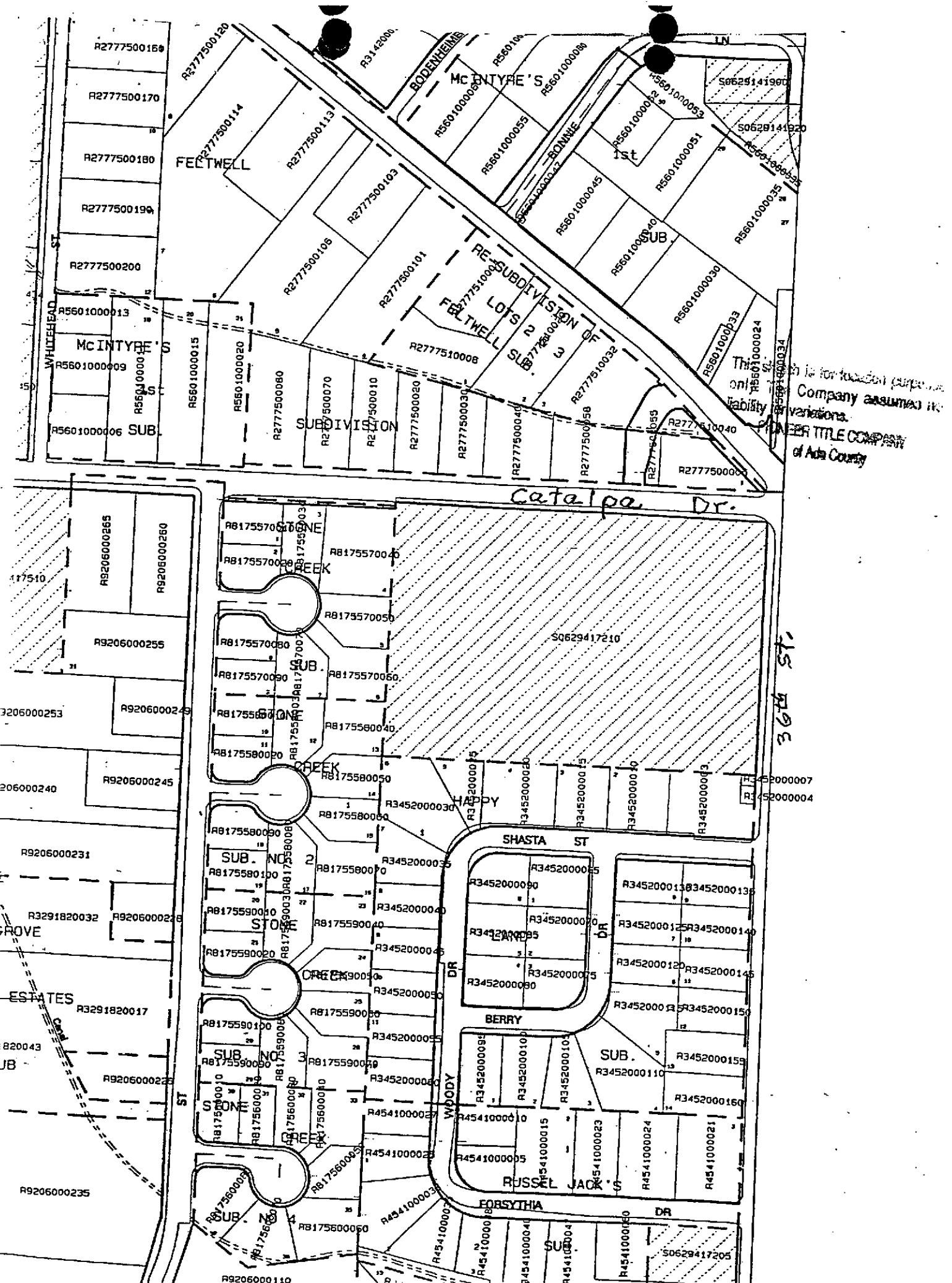
EXCEPT any portion lying within the following:

Commencing at the quarter section corner common to Sections 28 and 29, Township 4 North, Range 2 East, of the Boise Meridian, marked by a stone; thence South along the East line of said Section 29, a distance of 437.2 feet to a point the same being the TRUE POINT AND PLACE OF BEGINNING; thence continuing South $0^{\circ}29'$ West 1003.9 feet on the East line of said Section 29 marked by an iron pin; thence North $81^{\circ}16'$ West 234.2 feet to a point; thence North $61^{\circ}35'$ West 135.75 feet to a point; thence North $76^{\circ}20'$ West 328.4 feet to a point, marked by an iron pin; thence North $0^{\circ}39'$ East 838.2 feet to a point; thence South $89^{\circ}05'$ East 657 feet to the POINT AND PLACE OF BEGINNING.

EXCEPT ditch and road rights-of-way.

SCHEDULE II

1. All water, water rights, geothermal water rights, well rights, ditch rights and/or other water rights appurtenant to the premises including but not limited to the rights decreed to Frances Silkey and H. W. Tiegs under Silkey v. Tiegs, et al., in the District Court of the Third Judicial District of the State of Idaho, in and for Ada County, entered June 13, 1930, Case No. 11748; and rights acquired under Water Right No. 63-0012, 63-0013 and 63-0015 of the Idaho Department of Water Resources and Claims Nos. A63-0012, A63-0013 and A63-0015 filed in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls in that certain action entitled In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System, Case No. 39576, which water rights are for eighty (80) miner's inches (1.6 cu. ft. per second) of water for irrigation, stock, domestic, heating and other beneficial uses; and all water, water rights, geothermal water rights, well rights, ditch rights and/or other water rights as set forth in that certain Corporate Warranty Deed dated November 15, 1991, between Hunt Bros. Floral, Inc., as grantor, to Flora Co., as grantee, recorded on November 15, 1991, as Instrument No. 9165042, records of the Ada County Recorder, Ada County, Idaho.
2. The geothermal well retained by the grantor for itself and its successors and assigns, located in the northerly tip of the real property more particularly described in that certain Warranty Deed dated March 20, 1996, between Flora Co., Inc., as grantor, and Michael E. Peterson and Beth E. Peterson, husband and wife, as grantees, recorded on March 21, 1996, as Instrument No. 96023748, official records of Ada County, Idaho, along with any and all water rights, including geothermal rights, associated with said real property.
3. All easements set forth in that certain Agreement for Easement dated only as March, 1996, between Michael E. Peterson and Beth E. Peterson, husband and wife, as grantors, and Flora Co., Inc., an Idaho corporation, as grantee, recorded on March 21, 1996, as Instrument No. 96023749, official records of Ada County, Idaho, and the geothermal well and the related water lines and equipment located on the "Servient Parcel" described in said Easement Agreement.



This map is for location purposes only. The only liability for variations in the plat is assumed by the PLATTEE TITLE COMPANY of Ada County.

Jeffrey C. Fereday
Givens Pursley LLP
277 North 6th Street
P.O. Box 2720
Boise, ID 83701
(208) 388-1200
(208) 388-1300 (fax)

Claimant: The Terteling Company, Inc.

**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

Case No. 39576

)
)
) **NOTICE OF APPEARANCE**
)
)

The law firm of Givens Pursley LLP, 277 North 6th Street, Suite 200, P.O. Box 2720, Boise, Idaho 83701, through Jeffrey C. Fereday, hereby enters its appearance as attorneys of record in this matter for The Terteling Company, Inc. (water right numbers A63-00012, A63-00013, and A63-00015).

Dated this 7th day of June, 1999.

Jeffrey C. Fereday
Givens Pursley LLP

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of June, 1999, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

☒ U.S. Mail ☐ Fax ☐ By Hand ☐ Overnight

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098

☒ U.S. Mail ☐ Fax ☐ By Hand ☐ Overnight

The U.S. Department of Justice
Environmental & Natural Resources Division
550 West Fort Street
MSC 033
Boise, ID 83724

☒ U.S. Mail ☐ Fax ☐ By Hand ☐ Overnight

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-15
Date Received: 8/18/1989
Receipt No: W004644
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

THE TERTELING CO INC Phone: (208)338-5200
3823 N 36TH ST
BOISE ID USA 83703

2. Date of Priority: 03/23/1927

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
04N	02E	28	NW	NW	SW	ADA	
04N	02E	29	NE	NE	SE	ADA	
04N	02E	29	NE	NE	SE	ADA	
04N	02E	22	NW	NW	SW	ADA	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	01/01	12/31	0.8	38
HEATING	01/01	12/31	0.8	400
DOMESTIC	01/01	12/31	0.04	0.6

7. Total Quantity Appropriated is:
0.8 C.F.S. and/or 400 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

Number of homes: 1

Number of other uses: Business offices in house

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	02E	22	NE	SW	DOMESTIC	
			SE	SW	DOMESTIC	
			NE	SW	IRRIGATION	7
			SE	SW	IRRIGATION	0.5
			NE	SW	HEATING	
			SE	SW	HEATING	
Section Acres						7.5
04N	02E	29	NE	SE	HEATING	
			NE	SE	IRRIGATION	7.5
			NE	SE	DOMESTIC	
Section Acres						7.5
Total Acres						15

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

Attorney name updated. Removed Givens Pursley and added Charlie Honsinger per notification from Charlie Honsinger. DB 3/1/2004

Right 63-15 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.

Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.

The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.

Water under Right 63-15 shall not be diverted or allowed to flow pending further direction from the court as described under the Silkey v. Tiegs decree dated 06-13-1930.

Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.

Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.

Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.

The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.

Diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing a priority date earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells recognized in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWRs own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.

Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.

Use of water under this right may be affected by an agreement between the protestant and the right holder.

Irrigation use is for inside commercial greenhouses and outside irrigation.

Domestic use is for business offices.

The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

15. Basis of Claim: Decreed

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-00015
Date Received: 8/18/1989
Receipt No: W004644
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: FLORA CO 208-344-3751
Address: C/O JEFF JAYO
3823 N 36TH STREET
BOISE ID 83702

2. Date of Priority: MAR 23, 1927

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
04N	02E	28	NW	NW	SW		ADA
		29	NE	NE	SE		ADA

5. Description of diverting works:
3 WELLS: 2", 4", 4" APPROX. 1250' DEEP, ARTESIAN W/ PIPELINES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	01/01	12/31	0.800		
DOMESTIC	01/01	12/31	0.040		
STOCKWATER	01/01	12/31	0.030		
HEATING	01/01	12/31	0.800		

7. Total Quantity Appropriated is:
0.800 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 26.3 Acre Feet Per Annum.

9. Non-irrigation uses:
D/1 W/ YARD, STOCK 70 HD. MISC., HEATING 62,500 SQ-FT

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10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	02E	28	NW	SW		IRR	1.5
						Section Acres	1.5
		29	NE	SE		IRR	6.0
			NE	SE		STOCK	
			NE	SE		HEAT	
			NE	SE		DOMEST	
						Section Acres	6.0
						Total Acres	7.5

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
A63-00012, A63-00013

14. Remarks:

NO WATER TO BE ALLOWED TO FLOW OR BE USED FROM TIEGS WELL UNTIL FURTHER NOTICE BY COURT.
O.L. MILSTEAD FILED A CHANGE IN P/D ON OTHER WELLS. PART OF DECREE GRANTED IN SILKEY V TIEGS WAS TRANSFERRED TO TIEGS WELL & WELL WAS REOPENED.
SEE TRANS. #268. EXPANSION OF P/U VIA PRESUMPTION CLAUSE. ADDED POINTS OF DIVERSION OCCUR AS TRANSFER IN CLAIM. HEATING IS 1 HOME AT 2500 SQ-FT & GREENHOUSES AT 62,000 SQ-FT. IRRIGATION SEASON IS ALL YR. SINCE OCCURS IN GREENHOUSES.
TWO P/D IN NENESE S.29. ALL 3 WELLS HOT ARTESIAN WELLS.
ALSO SEE CLAIMS A63-00012 & A63-00013 FOR REVIEW PROCESS. NOTE THAT IRRGIATED ACRES NEED TO BE CLARIFIED IF RIGHT LEFT AS IRRIGATION. MAY NEED TO CHANGE USE TO COMMERCIAL TO ALLOW ALL YR. PERIOD OF USE. POSSIBLE THAT THIS RIGHT AND OTHER TWO RIGHTS MAY NEED TO HAVE CONDITIONS OF LIMITATIONS SINCE USES ARE ACTUALLY THE SAME FOR SAME ENTITIES.
OWNERSHIP CHANGED BY RDH ON JANUARY 14, 1992.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

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AUG 14 1992

SILKEY

Decree Plaintiff

TIEGS

vs

Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am _____ of
_____ Title
_____, that I have signed the foregoing
Organization
document in the space below as _____ of
_____ Title
_____ and that the statements contained in the
Organization
foregoing document are true and correct.

Signature of Authorized Agent

Title and Organization

Date

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED

AUG 14 1992

CORPORATE WARRANTY DEED

FOR VALUE RECEIVED, HUNT BROS. FLORAL, INC., an Idaho Corporation

organized and existing under the laws of the State of Idaho, with its principal office at _____, a corporation
of County of _____ Ada _____, State of Idaho,
GRANTOR, hereby GRANT, BARGAIN, SELL and CONVEY unto

FLORA CO., an Idaho Corporation GRantee
whose current address is: 3823 North 36th Street, Boise, Idaho 83703
the following described real property located in _____ Ada _____ County, State of Idaho,
more particularly described as follows, to wit:

Attached hereto and made a part hereof by reference marked as
"Exhibit A"

"All water, water rights, geothermal water rights, well rights, ditch rights and/or other water rights appurtenant to the premises including but not limited to decreed rights under Silkey v. Tieg's, et al., Case No. 11748 Ada County, Idaho District Court, dated June 30, 1930; and rights accrued under Claim No.s' 63-0012, 63-0013 and 63-0015 IDWR, to include forty-one (41) miner's inches for irrigation, stock, domestic, heating and other beneficial uses."

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantee(s) heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor will warrant and defend the same from all lawful claims whatsoever.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attended by a quorum.

In witness whereof, the Grantor has caused its corporate name to be hereunto affixed by its duly authorized officers this 15th day of November, in the year of 1991.

(CORPORATE SEAL)

HUNT BROS. FLORAL, INC.

(CORPORATE NAME)

By *Charles A. Hindman*

PRESIDENT

Attest:

SECRETARY

ACKNOWLEDGEMENT — Corporate

STATE OF Idaho County of Ada ss.

On this 15th day of November, 1991, before me, the undersigned, a Notary Public in and for said State, personally appeared

CHARLES A. HINDMAN

known or identified to me as being the PRESIDENT

of the corporation that executed the instrument

or the person who executed the instrument on behalf of said corporation, and

acknowledged to me that such corporation executed the same.

Signature: *Dianna L. Stork*

Name: Dianna L. Stork

Residing at: Meridian, Idaho

My commission expires 1-23-96

NOTARY

9165042

BOISE TITLE & ESCROW, INC.
ADA COUNTY, ID. FOR
J. DAVID NAVARRO
RECORDER BY *B. Belueal*

'91 NOV 15 PM 4 14



Boise Title & Escrow, Inc.

PARCEL 1:

That portion of Section 29, Township 4 North, Range 2 East, Boise Meridian, in the County of Ada, State of Idaho, more particularly described as follows:

Commencing at the quarter section corner common to Sections numbered 28 and 29, in Township 4 North, Range 2 East, the REAL PLACE OF BEGINNING; thence South $0^{\circ}29'$ West a distance of 662.3 feet along the section line common to said Sections 28 and 29; thence North $89^{\circ}11'$ West, parallel to the East and West quarter section line of said Section 29, a distance of 657.4 feet; thence North $0^{\circ}39'$ East a distance of 662.3 feet, to the East and West quarter section line of said Section 29; thence South $89^{\circ}11'$ East, along said quarter section line, 656.5 feet to the PLACE OF BEGINNING.

EXCEPT any portion lying within the following:

Commencing at the quarter section corner common to Sections 28 and 29, Township 4 North, Range 2 East, of the Boise Meridian, marked by a stone; thence South along the East line of said Section 29, a distance of 437.2 feet to a point the same being the TRUE POINT AND PLACE OF BEGINNING; thence continuing South $0^{\circ}29'$ West 1003.9 feet on the East line of said Section 29 marked by an iron pin; thence North $81^{\circ}16'$ West 224.2 feet to a point; thence North $61^{\circ}35'$ West 135.75 feet to a point; thence North $76^{\circ}20'$ West 328.4 feet to a point, marked by an iron pin; thence North $0^{\circ}39'$ East 838.2 feet to a point; thence South $89^{\circ}05'$ East 657 feet to the POINT AND PLACE OF BEGINNING.
EXCEPT ditch and road rights-of-way.

PARCEL 2:

That portion of Section 28, Township 4 North, Range 2 East, Boise Meridian in the County of Ada, State of Idaho, more particularly described as follows:

Beginning at the quarter section corner between Sections 28 and 29, Township 4 North, Range 2 East, Boise Meridian; thence South $0^{\circ}29'$ West 300 feet on section line; thence South $89^{\circ}53'$ East 370 feet; thence North $47^{\circ}53'$ West 446 feet on center line of Foot Hill Road; thence North $89^{\circ}22'$ West 35.64 feet on center line of Section 28, to the PLACE OF BEGINNING.
EXCEPT ditch and road rights-of-way.

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AUG 14 1992

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-00015
Date Received: 8/18/1989
Receipt No: W 4644
Received By: R

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HUNT BROS. FLORAL, INC. 208-344-3751
Address: 3823 N. 36
BOISE, ID 83703

2. Date of Priority: MAR 23, 1927

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
04N	02E	28	NW	NW	SW		ADA
		29	NE	NE	SE		ADA

5. Description of diverting works:
3 WELLS: 2", 4", 4" APPROX. 1250' DEEP, ARTESIAN W/ PIPELINES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	01/01	12/31	0.800		
DOMESTIC	01/01	12/31	0.040		
STOCKWATER	01/01	12/31	0.030		
HEATING	01/01	12/31	0.800		

7. Total Quantity Appropriated is:
0.800 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 26.3 Acre Feet Per Annum.

9. Non-irrigation uses:
D/1 W/ YARD, STOCK 70 HD. MISC., HEATING 62,500 SQ-FT

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	02E	28	NW	SW		IRR	1.5
Section Acres							1.5
		29	NE	SE		IRR	6.0
			NE	SE		STOCK	
			NE	SE		HEAT	
			NE	SE		DOMEST	
Section Acres							6.0
Total Acres							7.5

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
A63-00012, A63-00013

14. Remarks:

NO WATER TO BE ALLOWED TO FLOW OR BE USED FROM TIEGS WELL UNTIL FURTHER NOTICE BY COURT.
O.L. MILSTEAD FILED A CHANGE IN P/D ON OTHER WELLS. PART OF DECREE GRANTED IN SILKEY V TIEGS WAS TRANSFERRED TO TIEGS WELL & WELL WAS REOPENED.
SEE TRANS. #268. EXPANSION OF P/U VIA PRESUMPTION CLAUSE. ADDED POINTS OF DIVERSION OCCUR AS TRANSFER IN CLAIM. HEATING IS 1 HOME AT 2500 SQ-FT & GREENHOUSES AT 62,000 SQ-FT. IRRIGATION SEASON IS ALL YR. SINCE OCCURS IN GREENHOUSES.
TWO P/D IN NENESE S.29. ALL 3 WELLS HOT ARTESIAN WELLS.
ALSO SEE CLAIMS A63-00012 & A63-00013 FOR REVIEW PROCESS. NOTE THAT IRRGIATED ACRES NEED TO BE CLARIFIED IF RIGHT LEFT AS IRRIGATION. MAY NEED TO CHANGE USE TO COMMERCIAL TO ALLOW ALL YR. PERIOD OF USE. POSSIBLE THAT THIS RIGHT AND OTHER TWO RIGHTS MAY NEED TO HAVE CONDITIONS OF LIMITATIONS SINCE USES ARE ACTUALLY THE SAME FOR SAME ENTITIES.

15. Basis of Claim: DECREED

Case Number:
Court :
Decree date:

SILKEY

Decree Plaintiff

vs

TIEGS

Decree Defendant

A63-00015

Page

2

Date: 08/18/89

MICROFILMED

AUG 14 1992

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Robert J. Hunt Date: 8/18/89

Date: _____

For Organizations:

I do solemnly swear or affirm that I am President of

Title
Hunt Bros Floral Inc., that I have signed the foregoing
Organization
document in the space below as Same of

Title
Same and that the statements contained in the
Organization
foregoing document are true and correct.

Robert J. Hunt
Signature of Authorized Agent
President Hunt Bros Floral Inc.
Title and Organization
Aug. 18, 1989
Date

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 18 day
of August 19 89

Dori Harris
Notary Public

Seal

Residing at Boise, Idaho

A63-00015

Page

My Commission Expires 12-8-94
3 Date: 08/18/89

MICROFILMED

AUG 14 1992

A63-00015

3 wells
2 in NENESE S.29
1 in NWNWSW S.28
A63-00015



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
Case No. 39576

A. Subcase 63-15

(Insert water right number
From the Objection Form)

STANDARD FORM 2
RESPONSE TO OBJECTION

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Edwards Family LLC
Address: 4106 Sand Creek Street
Boise, Idaho 83703
Daytime Phone: (208) 342-7548

Name & Address of Attorney, if any:
Dana L. Hofstetter, ISB # 3867
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, Idaho 83702
(208) 424-7800

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING

Name: The Terteling Co. Inc.
Address: 3823 North 36th Street
Boise, Idaho 83703

D. I am responding to the objections to the following elements. (Please check the appropriate box(es))

1. ☐ Name and Address
2. ☐ Source
3. ☐ Quantity
4. ☐ Priority Date
5. ☐ Point(s) of Diversion
6. ☐ Instream Flow Description
7. ☐ Purpose(s) of Use
8. ☐ Period of Year
9. ☒ Place of Use
11. Recommendation
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. VERIFICATION (Must be Completed)

State of Idaho)
County of Ada) ss:

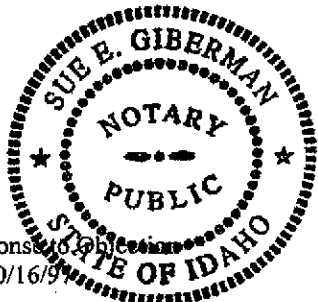
Dana L. Hofstetter duly sworn, upon oath, deposes and says:
(Name of person filing response)

That I am the party/claimant filing this response as defined by I.C. § 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: June 23, 2006



Sue E. Giberman
Notary Public for the State of Idaho
Residing at: Boise Idaho
My Commission Expires: 2-25-09

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING

I certify that on June 23, 2006, I caused to be hand delivered the original and caused to be mailed copies of this response, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: The Terteling Co. Inc.
Address: 3823 North 36th Street
Boise, Idaho 83703

3. One copy to the party who filed the objection. at the following address:

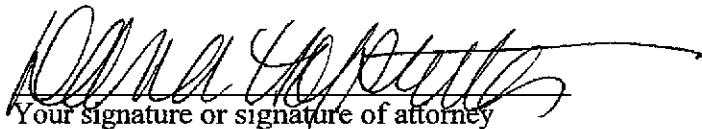
Name: Charles L. Honsinger
Address: Ringert Clark Chartered
P.O. Box 2773
Boise, Idaho 83701

4. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449


Your signature or signature of attorney
mailing on your behalf

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

Case 39576

A. Subcase 63-15
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Edwards Family LLC
Address: 4106 Sand Creek Street
Boise, Idaho 83703
Daytime Phone: 208-342-7548

Name & Address of Attorney, if any:

Dana Hofstetter
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, Idaho 83702
208-424-7800

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: The Terteling Co. Inc
Address: 3823 N. 36th Street
Boise, Idaho 83703

D. I object to the following elements as recommended in the Director's Report.
(Please check the appropriate box(es)):

■ **General Provisions Basin 63, Part II**
(General Provisions 1 and 2) Separate Sources Administration

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: See Section E
3. ☒ **Quantity**
Should be: See Section E
4. ☐ **Priority Date**
Should be: _____
5. ☒ **Point of Diversion**
Should be: See Section E
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: See Section E
8. ☒ **Period of Year**
Should be: See Section E
9. ☒ **Place of Use**
Should be: See Section E
10. **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** The Stewart Gulch Geothermal Aquifer should be managed as a separate source pursuant to *Silkey v. Tiegs*. Heating is not a year round use. The provisions listed under "Explanatory Material" (except for "Basis of Claim") should be listed under "Other Provisions." The reference to "Water District 63-S in the 3rd, 5th, and 9th provisions under "Explanatory Material" should read "Water District 63-S or successor regulatory entity." The reference to "geothermal water" in the 7th provision under "Explanatory Material" should read "low-temperature geothermal water." A statement that this right is no longer diverted under artesian conditions without pumping should be included in "Other Provisions." Duplicate 63-31054 should be corrected.

F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

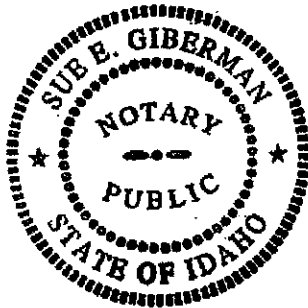
Dana L. Hofstetter, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Signature of person filing objection

Dana Hofstetter
Attorney signing in representative capacity

Subscribed and sworn to before me on: April 20, 2006



Sue E. Giberman
Notary Public for the State of Idaho
Residing at: Boise Idaho
My Commission expires: 2-25-09

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on April 21, 2006, I filed the original with the SRBA Court and mailed copies of this Objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court (*via Hand Delivery*)
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to the claimant of the water right at the following addresses:

Name: The Terteling Co. Inc
Address: 3823 N 36th Street
Boise, Idaho 83703

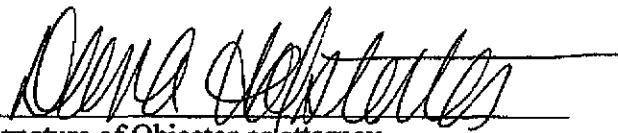
Charles Honsinger
Ringert Clark Chartered
P.O. Box 2773
Boise, Idaho 83701-22773

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street, MCS 033
Boise, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf

DEPARTMENT OF
WATER RESOURCES

In Re SRBA
Case No. 39576

A. Subcase 63-15
(Insert water right no.)

STANDARD FORM 1 OBJECTION

B. NAME AND ADDRESS OF PERSON OBJECTING

Address: 3823 North 36th Street
Boise, Idaho 83703

Name & Address of Attorney, if any:
Charles L. Honsinger
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701

Address: 3823 North 36th Street
Boise, Idaho 83703

COPY

D. I object to the following elements as recommended in the Director's Report. (Please check the Appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: Combined irrigation use remark should be removed or modified to include only right nos. 12, 13 and 15.
10. ☐ **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION (S): The remark is not listed on Transfer no. 68558, approved on Oct. 9, 2002.

F.

VERIFICATION (must be completed)

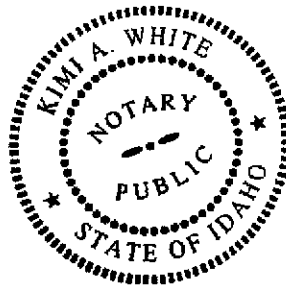
State of Idaho)
) ss.
County of Ada)

Charles L. Honsinger, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I. C. §§ 42-1401A (1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Charles L. Honsinger
Charles L. Honsinger

Subscribed and sworn to before me on: April 19, 2006



Kimi A. White
Notary Public for Idaho
Residing at: Boise Idaho
My Commission Expires: 2/1/11

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will no be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on April 20, 2006, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the Claimant of the water right at the following address:

Name: THE TERTELING CO INC.

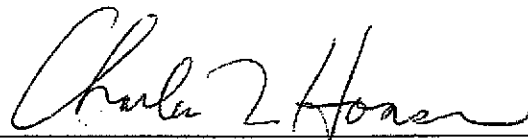
Address: 3823 North 36th Street
Boise, Idaho 83703

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449



Signature of Objector or attorney
mailing on Objector's behalf

11/28/2005

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

RIGHT NUMBER: 63-15

NAME AND ADDRESS: THE TERTELING CO INC
3823 N 36TH ST
BOISE ID 83703

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.800 CFS
400.000 AFY

The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.

Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.

PRIORITY DATE: 03/23/1927

POINT OF DIVERSION:

T04N R02E S22 NWSW Within ADA County

T04N R02E S28 NWSW Within ADA County

T04N R02E S29 NESE Within ADA County

T04N R02E S29 NESE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.040 CFS 0.60 AFY
IRRIGATION	01/01 12/31	0.800 CFS 38.00 AFY
HEATING	01/01 12/31	0.800 CFS 400.00 AFY

Domestic use is for business offices.

Irrigation use is for inside commercial greenhouses and outside irrigation.

PLACE OF USE: IRRIGATION Within ADA County

T04N R02E S22 NESW 7.0 T04N R02E S22 SESW 0.5

T04N R02E S29 NESE 7.5

HEATING Within ADA County

T04N R02E S22 NESW T04N R02E S22 SESW

T04N R02E S29 NESE

DOMESTIC Within ADA County

T04N R02E S22 NESW T04N R02E S22 SESW

T04N R02E S29 NESE

15 ACRES TOTAL

Water Right 63-15

1

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

The rights listed below are limited to the irrigation of a combined total of 171 acres in a single irrigation season. Combined Right Nos.: 63-12, 63-13, 63-15, 63-308, 63-3603, 63-7595, 63-27649, 63-27671, 63-31053, 63-31054, 63-31055, 63-31054.

Right 63-15 is limited to the irrigation of 6.0 acres within the place of use described above 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

The Director maintains jurisdiction of transfer no. 68558 up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.

Diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing a priority date earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells recognized in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWRs own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.

Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.

Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.

Prior to diversion of water under transfer no. 68558, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

Water is 120 degree F geothermal water.

11/28/2005

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

This water right is subject to the terms of an Agreement dated January 24, 2002, recorded at the Ada County Recorder's Office on August 27, 2002, as Instrument No. 102097169.

Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.

Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.

The right holder shall accomplish the change authorized by transfer no. 68558 within one year of the date of approval.

Water under Right 63-15 shall not be diverted or allowed to flow pending further direction from the court as described under the Silkey v. Tiegs further direction from the court as described under the Silkey v. Tiegs decree dated 06-13-1930.

The Silkey v. Tiegs decree specifically addressed the protected artesian pressure in the aquifer. The Department, in deference to the Silkey decree, will refrain from examining whether the artesian pressure in Stewart Gulch constitutes a reasonable pumping level and is in the public interest pursuant to I.C. 42-226 unless and until a contrary determination is made in an appropriate judicial or administrative proceeding.

The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.



**State of Idaho
Idaho Department of Water Resources
Western Region**

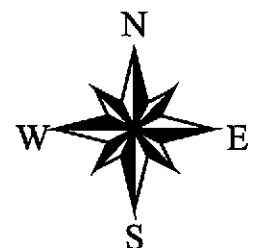
**T4N R2E SECTIONS 22, 28 and 29
Water Right (s): 63-12, 63-13 and 63-15**



1320 0 1320 2640 3960 5280 Feet



TOTAL IRRIGATED ACRES = 15



- Point of Diversion
- Place of Use
- Section Lines
- Quarter Quarter Lines

**GIS Place of Use Illustration
2003 Photography
Prepared By: Vicky Music
Date: May 2005**

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-15 V1

WATER RIGHT NUMBER: 63-15 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	THE TERTELING CO INC 3823 N 36TH ST BOISE, ID 83703 (208)338-5200
Attorney	CHARLES L HONSINGER RINGERT CLARK CHARTERED PO BOX 2773 BOISE, ID 83701-2773 (208)342-4591
Original Owner	H W TIEGS BOISE, ID 83703

Priority Date: 03/23/1927

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
DOMESTIC	01/01 to 12/31	0.040 CFS	0.60 AF
IRRIGATION	01/01 to 12/31	0.800 CFS	38.00 AF
HEATING	01/01 to 12/31	0.800 CFS	400.00 AF
	<u>Total Diversion:</u>	0.800 CFS	400.00 AF

Location of Point(s) of Diversion

GROUND WATER	NW1/4SW1/4	Sec. 28, Twp 04N, Rge 02E, B.M.
ADA County		
GROUND WATER	NE1/4SE1/4	Sec. 29, Twp 04N, Rge 02E, B.M.
ADA County		
GROUND WATER	NE1/4SE1/4	Sec. 29, Twp 04N, Rge 02E, B.M.
ADA County		
GROUND WATER	NW1/4SW1/4	Sec. 22, Twp 04N, Rge 02E, B.M.
ADA County		

Place of UseDOMESTIC Within ADA County

T04N R02E S22	NESW	T04N R02E S22	SESW
T04N R02E S29	NESE		

IRRIGATION Within ADA County

T04N R02E S22	NESW	7.0	T04N R02E S22	SESW	0.5
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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-15 V1

T04N R02E S29 NESE 7.5

Total Acres: 15

HEATING Within ADA County

T04N R02E S22 NESW T04N R02E S22 SESW

T04N R02E S29 NESE

Conditions of Approval:

1. T02 The Director maintains jurisdiction of transfer no. 68558 up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.
2. Diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing a priority date earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells recognized in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWRs own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.
3. Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.
4. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.
5. T18 Prior to diversion of water under transfer no. 68558, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
6. B07 Water is 120 degree F geothermal water.
7. 020 This water right is subject to the terms of an Agreement dated January 24, 2002, recorded at the Ada County Recorder's Office on August 27, 2002, as Instrument No. 102097169.
8. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.
9. 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.
10. X01 Domestic use is for business offices.
11. WB4 The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.
12. X35 Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.
13. X10 Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.
14. Irrigation use is for inside commercial greenhouses and outside irrigation.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-15 V1

15. The right holder shall accomplish the change authorized by transfer no. 68558 within one year of the date of approval.
16. Water under Right 63-15 shall not be diverted or allowed to flow pending further direction from the court as described under the Silkey v. Tiegs decree dated 06-13-1930.
17. E56 The rights listed below are limited to the irrigation of a combined total of 171 acres in a single irrigation season. Combined Right Nos.: 63-12, 63-13, 63-15, 63-308, 63-3603, 63-7595, 63-27649, 63-27671, 63-31053, 63-31054, 63-31055, 63-31054.
18. The Silkey v. Tiegs decree specifically addressed the protected artesian pressure in the aquifer. The Department, in deference to the Silkey decree, will refrain from examining whether the artesian pressure in Stewart Gulch constitutes a reasonable pumping level and is in the public interest pursuant to I.C. 42-226 unless and until a contrary determination is made in an appropriate judicial or administrative proceeding
19. The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.
20. X27 Right 63-15 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.

Remarks:Comments:

1. vmusic 5/24/2005 RECOMMENDATION

Comment: recommended per approved transfer number = 68558

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POD	5/24/2005 11:53:26 AM	vmusic	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (Yes) 5. Can the claimed POD be verified using the water right file? (Yes) 10. Is a POD remark and/or condition required?
POD	5/24/2005 11:54:06 AM	vmusic	Updated shape
POD	5/24/2005 11:54:38 AM	vmusic	Updated shape
General	5/24/2005 11:53:09 AM	vmusic	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-15 V1

POD	5/24/2005 11:55:05 AM	vmusic	Updated shape
POU	5/24/2005 11:56:04 AM	vmusic	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (Yes) 14. Is a POU remark and/or condition required?
POU	5/24/2005 11:56:34 AM	vmusic	Updated shape for Active POU
POU	5/24/2005 12:03:12 PM	vmusic	Updated shape for Active POU
Contacts	5/24/2005 11:52:51 AM	vmusic	(No) 1. Do you want to schedule an appointment? Comment for 1: DESKTOP REVIEW
Source	5/24/2005 11:55:37 AM	vmusic	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file? (No) 11. Is a Source remark and/or condition required?
Use	5/24/2005 11:56:57 AM	vmusic	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file? (Yes) 13. Is a Purpose of Use remark and/or condition required?
Season	5/24/2005 11:57:32 AM	vmusic	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a Period of Use? (Yes) 5. Can the claimed Period of Use be verified using the water right file? (Yes) 14. Is irrigation claimed as a Purpose of Use? (No) 16. Is the Period of Use on the decree, license or transfer shorter on either the start date or end date than allowable under current IDWR standards? (No) 18. Is a Period of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-15 V1

Quantity	5/24/2005 11:59:14 AM	vmusic	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file? (No) 8. Does the parent right have an annual diversion volume limit? (Yes) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (Yes) 10. Is a irrigation a purpose of use? (Yes) 12. Is a Quantity remark or condition required? Description for Question 10 - SEE TRANSFER FILE
POD	5/24/2005 12:02:39 PM	vmusic	Updated shape
Summary	5/24/2005 12:14:06 PM	vmusic	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (Yes) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (Yes) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?

Water Supply Bank:

Music, Vicky

From: Music, Vicky
Sent: Friday, October 14, 2005 1:55 PM
To: Charlie Honsinger (E-mail); 'tom@tertco.com'
Cc: Shurte, Jan
Subject: B63 Pt 2 DR

Charlie and Tom -

The Director's Report for Basin 63 Part 2 will be submitted to the SRBA Court the week of December 12. Internal IDWR deadlines in preparation for the Director's Report require that I have all of the supporting documentation for claims to be recommended in this Director's report by October 31, 2005.

Please submit all supporting documentation for the Terteling claims, including the amended claims, by October 31, 2005. If I do not have the information by that time, I will recommend the claims based on the information I have.

Thanks,

Vicky L. Music
Sr. Water Resource Agent
Adjudication Bureau
IDWR/Western Region
2735 Airport Way
Boise, Idaho 83705-5082
(208) 334-2190

Tracking:

Recipient

Charlie Honsinger (E-mail)
'tom@tertco.com'
Shurte, Jan

Delivery

Delivered: 10/14/2005 1:55 PM

Music, Vicky

From: Music, Vicky
Sent: Wednesday, November 23, 2005 9:54 AM
To: 'Charlie Honsinger'
Cc: 'Tom Terteling (E-mail)'; Shurte, Jan; Spencer, Nick
Subject: RE: Preliminary Recommendations/Notices of Error

Tracking:	Recipient	Delivery
	'Charlie Honsinger'	
	'Tom Terteling (E-mail)'	
	Shurte, Jan	Delivered: 11/23/2005 9:54 AM
	Spencer, Nick	Delivered: 11/23/2005 9:54 AM

Charlie and Tom -

I am very sorry about the short timeline, however, the sheer number of claims filed by your client, including late claims filed only a few weeks ago and the confusion regarding the licenses 63-3603 and 63-7595 that resulted in amended claims being submitted just 3 weeks ago, have caused these preliminary DRs to be sent with a short NOE period. My deadline for having recommendations done is Dec 2 and the Basin 63 Part 2 DR is due to be submitted around Dec 13. Submitting a notice of error will most likely not affect my recommendations because I really don't think there are errors in the preliminary DRs that can be corrected by the NOE process, such as typos or changes in ownership, but you may submit them when you can through December 9. We will have to let the objection procedure handle the substantive issues as is usual.

8 of the 12 preliminaries sent this week [63-31056 is listed twice in your email] are associated with 3 of the 4 residences on the property and I attempted to group those together so they could be reviewed together. They are small domestic and stock.

Lastly, I will be adding to the recommendations for 63-12, 63-13, 63-15 and 63-308 the combined use POU remark for 171 acres. For 63-12, 63-13, **63-15**, 63-3603 and 63-7595, I will be adding the temperature of the water. I will not send out an new preliminary on these.

Hope this helps -

Vicky L. Music
 Sr. Water Resource Agent
 Adjudication Bureau
 IDWR/Western Region
 2735 Airport Way
 Boise, Idaho 83705-5082
 (208) 334-2190

-----Original Message-----

From: Charlie Honsinger [mailto:clh@ringertclark.com]
Sent: Wednesday, November 23, 2005 8:29 AM
To: Music, Vicky
Cc: Tom Terteling
Subject: Preliminary Recommendations/Notices of Error

Vicky: Preliminary recommendations for the following water rights have been sent via e-mail to Tom Terteling and I over the past two days:

11/23/2005

63-27649, 63-27671, 63-31054, 63-31055, 63-31053, 63-31050, 63-31052, 63-31062, 63-31056, 63-31057, 63-31056, 63-31058, 63-31060.

I did not receive one of these e-mails until I came into the office this morning. The instructions attached to the Preliminary Recommendations provide that the Notices of Error are due on Tuesday, November 29 - six days from today. My client has been out of town for several days, and the Thanksgiving holiday is tomorrow - I plan on leaving my office this afternoon at 2:00 to travel out of town, and will not be back until Monday. I do not know my client's plans, but I know he has been extremely busy and was expecting to be so for some time.

Given all of these factors, together with the facts that I have many other pressing matters I must address over the next several business days and that I believe my client's situation to be similar to mine, it is simply unrealistic to expect the Terteling Company to respond to 14 Preliminary Recommendations within a six-day period with an intervening four-day holiday weekend. We will attempt to review and respond to the Preliminary Recommendations as soon as possible, but it is simply impossible for us to get to them as quickly as provided.

Please respond with an extended timeline. Thank you.

Charlie Honsinger

11/23/2005

Music, Vicky

From: Music, Vicky
Sent: Wednesday, June 29, 2005 4:07 PM
To: Charlie Honsinger (E-mail)
Cc: Shurte, Jan
Subject: SRBA Claims 63-12, 63-13, 63-15, 63-308

Hi Charlie -

I received the NOAs for the claims referenced above. For the most part, no changes to the recommendations will be made. See reasons below.

63-12, 63-13 and 63-15

Re ownership - All were claimed in the name of the Terteling Co. Inc. If the claimant wants the rights in the name of another business entity, a change of ownership must be filed.

Re remarks in purpose and period of use - these are not explanatory but further described the approved uses and were properly located in the element portion of the recommendation.

Re place of use - The water right holder IS restricted to use within the recommended 1/4 1/4 sections. The place of use approved under the transfer is very specific, there is no permissible place of use under the transfer, and the map and pou comport with the map submitted in the application for transfer # 68558.

Re explanatory remarks - Adjudication agents have been instructed to include in the recommendation all conditions upon which a transfer is approved. When the water rights have been decreed and are moved to the water rights section of the database, the conditions are preserved. Hence, they will stay.

Re a "reasonable pumping level" remark - I see I missed condition # 7 in the amended transfer 68558, amended after the order amending preliminary order and denying petition of reconsideration was issued in 2002. Therefore, I will add the following condition #7 in its entirety in explanatory remarks:

" The Silkey v. Tiegs decree specifically addressed the protected artesian pressure in the aquifer. The Department, in deference to the Silkey decree, will refrain from examining whether the artesian pressure in Stewart Gulch constitutes a reasonable pumping level and is in the public interest pursuant to I.C. 42-226 until such time as the court address the issue in the Snake River Basin Adjudication. "

63-308

re ownership - claimed in the name of The Terteling Co Inc. and Terteling Trust No. 7. If claimant desires right be held in another name, a change of ownership form is needed.

re place of use and map - the original claim filed in 1990 and the amended claim filed in 1999 both include maps of the place use. The maps contradict each other and the map attached to the 1999 claim locates the pou in QQ sections not even claimed. Please clarify the pou. Additionally, a field exam will be needed. Should we coordinate it with Ed Squires?

I hope this is helpful.
Sincerely,

Vicky L. Music
Senior Water Resource Agent
Adjudication Bureau

RECEIVED

JUN 28 2005

WATER RESOURCES
WESTERN REGION

NOTICE OF ERROR

REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: July 15, 2005

Water Right Number: 63-15

THE TERTELING CO., INC.
3823 N. 36TH ST
BOISE, ID 83703
Telephone Number: (208)338-5200

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
Purpose and period of use
Place of use
Explanatory Material
2. Describe the changes you wish to make in the proposed recommendation:
Remove remarks from the Purpose and Period of Use elements of the recommendation and place them under "EXPLANATORY MATERIAL."

Ensure that the attached map showing places of use is not part of the recommendation itself, and does not limit the water right holder to any particular place of use within each 1/4 1/4 section.

Remove remarks from Explanatory Material that are no longer applicable. I.e. remarks that explain that the transfer must be accomplished within one year of its approval, or that the transferee must place lockable controllable diversion works and measuring devices prior to diversion under the transfer.

Add a remark in the Explanatory Material section stating that aquifer pressures in the wells that were the original points of diversion for this water right are protected at their current levels, and that no examination or determination of "reasonable pumping levels" in those wells shall be made.

3. Give a brief explanation as to why you disagree with these portions:
The remarks under the elements are simply explanatory material, and are not elements of the water right.

Place of use cannot be limited within each 1/4 1/4 section to any particular, specified location.

Certain remarks in the Explanatory Material section of the recommendation are no longer applicable as the time period referred to by the remark has already passed, or other contingency has already occurred. Therefore, the remarks are no longer necessary.

Remarks regarding aquifer pressures are necessary to reflect the intent and language of the Silkey v. Tiegs decree.

_____ **I AGREE with this proposed recommendation; no changes need to be made.**

DATE: 6/27/05

SIGNATURE: Charles L. Horsinger

Please print your name: Charles L. Horsinger

03/22/2004

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

RIGHT NUMBER: 63-15

NAME AND ADDRESS: THE TERTELING CO INC
3823 N 36TH ST
BOISE ID 83703

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.800 CFS
400.000 AFY

The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.

PRIORITY DATE: 03/23/1927

POINT OF DIVERSION:

T04N R02E S22 NWNWSW Within ADA County
T04N R02E S28 NWNWSW Within ADA County
T04N R02E S29 NENESE Within ADA County
T04N R02E S29 NENESE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.040 CFS 0.60 AFY
IRRIGATION	01/01 12/31	0.800 CFS 38.00 AFY
HEATING	01/01 12/31	0.800 CFS 400.00 AFY
COMMERCIAL	01/01 12/31	0.800 CFS 400.00 AFY
AESTHETIC	01/01 12/31	0.800 CFS 400.00 AFY

Domestic use is for business offices.

PLACE OF USE: DOMESTIC Within ADA County

T04N R02E S22	NESW	T04N R02E S22	SESW
T04N R02E S29	NESE		

IRRIGATION Within ADA County

T04N R02E S22	NESW	7.0	T04N R02E S22	SESW	0.5
T04N R02E S29	NESE	7.5			

HEATING Within ADA County

T04N R02E S22	NESW	T04N R02E S22	SESW
T04N R02E S29	NESE		

COMMERCIAL same as DOMESTIC

AESTHETIC same as DOMESTIC

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

Right 63-15 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.

Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6

af for domestic use, and 400.0 af for heating and all combined uses.

EXPLANATORY MATERIAL: Decreed

Water under Right 63-15 shall not be diverted or allowed to flow pending further direction from the court as described under the Silkey v. Tiegs decree dated 06-13-1930.

Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.

Diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing a priority date earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells recognized in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWRs own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.

The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.

Irrigation use is for inside commercial greenhouses and outside irrigation.

Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.

Use of water under this right may be affected by an agreement between the protestant and the right holder.

Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.

The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.

RINGERT
CLARK
CHARTERED
LAWYERS

RECEIVED

MAR 17 2004

WATER RESOURCES
WESTERN REGION

Laura E. Burri
Jeffrey R. Christenson
David P. Claiborne
D. Blair Clark
Michael J. Doolittle
S. Bryce Farris
David Hammerquist
Charles L. Honsinger
Joseph B. Jones
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid
Daniel V. Steenson
Allyn L. Sweeney

William F. Ringert, of Counsel
Samuel Kaufman (1921-1986)

March 16, 2004

Ms. Jan Shurte
Idaho Dept. of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

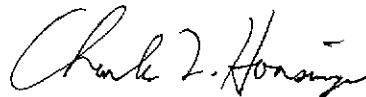
Re: Amended Claims to Water Right Nos. 63-12, 63-13, 63-15, 63-31051

Dear Jan:

Enclosed please find the above referenced Amended Claims to Water Rights which I submit on behalf of my client, The Terteling Company, Inc. Please replace the original claims to these water rights with the enclosed Amended Claims.

Please contact me with any questions or concerns.

Sincerely,



Charles L. Honsinger

cc: Tom Terteling
Ed Squires

**RINGERT
CLARK**
CHARTERED
LAWYERS

RECEIVED
FEB 23 2004
WATER RESOURCES
WESTERN REGION

Laura E. Burri
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William F. Ringen, of Counsel
Samuel Kaufman (1921-1986)

February 20, 2004

Mr. John Westra
Western Regional Manager
Idaho Dept. of Water Resources
2735 Airport Way
Boise, ID 83705-5082

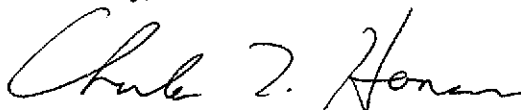
Re: Terteling Company and T-7, LLC water rights

Dear Mr. Westra:

This correspondence will notify you that my clients, the Terteling Company and T-7, LLC, have requested that I be designated as the attorney of record for all matters involving any water rights that they own. Such matters include SRBA claims filed by my clients, as well as any other water right proceedings in which they are currently involved. Please ensure that such changes are made to IDWR's records as are appropriate.

Thank you for your assistance, and please feel free to contact me with questions or concerns.

Sincerely,



Charles L. Honsinger

cc: Clients
Jeff Fereday
Ed Squires

* See attached spreadsheet
✓ done 3-1-04.

<u>Basin</u>	<u>Sequ</u>	<u>Suf</u>	<u>Basis</u>	<u>Status</u>	<u>Right ID</u>	<u>Owner(s)</u>	<u>Source Table</u>	
63	12		Decreed	Active	550157	THE TERTELING CO INC (Cu	wrAdjudicationClaim	✓
63	13		Decreed	Active	550159	THE TERTELING CO INC (Cu	wrAdjudicationClaim	✓
63	15		Decreed	Active	550160	THE TERTELING CO INC (Cu	wrAdjudicationClaim	✓
63	308		Decreed	Active	190638	TERTELING TRUST NO 7 (Cu	wrAdjudicationClaim	✓
63	3603		License	Active	280386	THE TERTELING CO INC (Cu	wrAdjudicationClaim	✓
63	7595		License	Active	280392	THE TERTELING CO INC (Cu	wrAdjudicationClaim	✓
63	31051		Beneficial Use	Active	550153	THE TERTELING CO INC (Cu	wrAdjudicationClaim	✓
63	31058		Beneficial Use	Active	423099	THE TERTELING CO INC (Cu	wrAdjudicationClaim	✓
63	31059		Beneficial Use	Active	423100	THE TERTELING CO INC (Cu	wrAdjudicationClaim	✓
63	31060		Beneficial Use	Active	422793	THE TERTELING CO INC (Cu	wrAdjudicationClaim	✓
63	31061		Beneficial Use	Active	422794	THE TERTELING CO INC (Cu	wrAdjudicationClaim	✓
63	31062		Beneficial Use	Active	422968	THE TERTELING CO INC (Cu	wrAdjudicationClaim	✓
65	4040		Beneficial Use	Active	378448	THE TERTELING CO INC (Cu	wrAdjudicationClaim	Disallowed
65	7450		License	Active	279509	THE TERTELING CO INC (Cu	wrAdjudicationClaim	PD Issued
65	7451		License	Active	323108	THE TERTELING CO INC (Cu	wrAdjudicationClaim	PD Issued
65	7452		License	Active	278690	THE TERTELING CO INC (Cu	wrAdjudicationClaim	PD Issued
65	22031	A	Beneficial Use	Active	425066	THE TERTELING CO INC (Cu	wrAdjudicationClaim	PD Issued
65	22291		Beneficial Use	Active	544712	THE TERTELING CO INC (Cu	wrAdjudicationClaim	PD Issued
65	22293		Beneficial Use	Active	544722	THE TERTELING CO INC (Cu	wrAdjudicationClaim	PD Issued
65	22295		Beneficial Use	Active	544739	THE TERTELING CO INC (Cu	wrAdjudicationClaim	PD Issued
63	12		Decreed	Active	560186	THE TERTELING CO INC (Cu	wrAdjudicationRecomm.	✓
63	13		Decreed	Active	560187	THE TERTELING CO INC (Cu	wrAdjudicationRecomm.	✓
63	15		Decreed	Active	560188	THE TERTELING CO INC (Cu	wrAdjudicationRecomm.	✓
63	31051		Beneficial Use	Active	560185	THE TERTELING CO INC (Cu	wrAdjudicationRecomm.	✓
65	7450		License	Active	545342	THE TERTELING CO INC (Cu	wrAdjudicationRecomm.	PD Issued
65	7451		License	Active	545344	THE TERTELING CO INC (Cu	wrAdjudicationRecomm.	PD Issued
65	7452		License	Active	545343	THE TERTELING CO INC (Cu	wrAdjudicationRecomm.	PD Issued
65	22031	A	Beneficial Use	Active	545350	THE TERTELING CO INC (Cu	wrAdjudicationRecomm.	PD Issued
65	22291		Beneficial Use	Active	545351	THE TERTELING CO INC (Cu	wrAdjudicationRecomm.	PD Issued
65	22293		Beneficial Use	Active	545353	THE TERTELING CO INC (Cu	wrAdjudicationRecomm.	PD Issued
65	22295		Beneficial Use	Active	545352	THE TERTELING CO INC (Cu	wrAdjudicationRecomm.	PD Issued

<u>Basin</u>	<u>Sequ</u>	<u>Suf</u>	<u>Basis</u>	<u>Status</u>	<u>Right ID</u>	<u>Owner(s)</u>	<u>Source Table</u>	
63	12540			Active	110399	THE TERTELING CO INC (Cu	wrWaterApplication	Western Hold Drawer
63	27670		Decreed	Active	119795	THE TERTELING CO INC (Cu	wrWaterRight	PD Issued
63	28364		Decreed	Active	126717	THE TERTELING CO INC (Cu	wrWaterRight	PD Issued
65	22013		Decreed	Active	545345	THE TERTELING CO INC (Cu	wrWaterRight	PD Issued
65	22016		Decreed	Active	545346	THE TERTELING CO INC (Cu	wrWaterRight	PD Issued
65	22018		Decreed	Active	545347	THE TERTELING CO INC (Cu	wrWaterRight	PD Issued
65	22019		Decreed	Active	545348	THE TERTELING CO INC (Cu	wrWaterRight	PD Issued
65	22021		Decreed	Active	545349	THE TERTELING CO INC (Cu	wrWaterRight	PD Issued

<u>Basin</u>	<u>Sequ</u>	<u>Suf</u>	<u>Basis</u>	<u>Status</u>	<u>Right ID</u>	<u>Owner(s)</u>	<u>Source Table</u>	
63	27649		Beneficial Use	Active	190606	T-7 LLC (Current)	wrAdjudicationClaim	✓
63	27671		Beneficial Use	Active	125220	T-7 LLC (Current)	wrAdjudicationClaim	✓
63	30006		Beneficial Use	Active	338726	T-7 LLC (Current)	wrAdjudicationClaim	✓
63	30007		Beneficial Use	Active	338727	T-7 LLC (Current)	wrAdjudicationClaim	✓
63	31050		Beneficial Use	Active	423091	T-7 LLC (Current)	wrAdjudicationClaim	✓
63	31052		Beneficial Use	Active	423093	T-7 LLC (Current)	wrAdjudicationClaim	✓
63	31053		Beneficial Use	Active	423094	T-7 LLC (Current)	wrAdjudicationClaim	✓
63	31054		Beneficial Use	Active	423095	T-7 LLC (Current)	wrAdjudicationClaim	✓
63	31055		Beneficial Use	Active	423096	T-7 LLC (Current)	wrAdjudicationClaim	✓
63	31056		Beneficial Use	Active	423097	T-7 LLC (Current)	wrAdjudicationClaim	✓
63	31057		Beneficial Use	Active	423098	T-7 LLC (Current)	wrAdjudicationClaim	✓

July 30, 2001

Steve Lester 

BOISE FRONT GWMA SUMMARY

CHRONOLOGY

1892 - BWSWD, first 2 hot wells & heating district in US, discharge to river.

1976- BLM monitoring well.

1983

- State Capitol Mall production & injection wells (1 each) in use
- 3 City wells in use, discharge to river
- Boise Front production increased about 100%.

1987

- Aquifer declines, GWMA Order, ground water > 85° F or cold water $\geq 300'$
- Monitor Order for rate, volume, psi &/or drawdown, temperatures for production & monitoring wells.

1988

- GWMA Management Plan: use heat value, promote efficiency & minimize waste, switch to cold water where feasible, require injection where feasible, require measurement & data collection, create water district once interim decree issued, permits w/o proof cannot develop more unless justify, applications for permit cannot be processed unless justify
- Moratorium Order for 5 years
- VA production & injection wells (1 each) in use, 15% increase in Boise Front production but minor impact
- 4 major users served several hundred private & public buildings, heat > 3.7 million square feet, save \$1M + annually compared to heating w/ fossil fuel.

1993 – Moratorium extended 5 years.

1998 – Neely's report, Moratorium extended 5 years.

2001

- System appears stable, 3 of 4 main users have injection wells
- Model suggests BWSWD & City could increase 20% (include injection) without problems.

WATER DISTRICT 63-S

- In GWMA but not included in above summary
- About 6 wells, no injection, indirect discharge to river
- 2 nurseries, one major ranch, 1 golf course & some minor domestic uses
- Annual use unknown but less now than early 1990s (substitute cold water, reduced irrigation use)
- Pumping continues but district inactive last few years.

ACTIVE WELL SITES & DEPTHS

<u>System</u>	<u>Site</u>	<u>Depth (ft.)</u>	<u>Year</u>
BWSWD	foothills above Quarry Park	400	1891
State	Capitol Mall, State & 6 th	2152-3030	1981
City	foothills above Fort Boise	880-2008	1981
VA	Fort St. & 5 th	1666-2300	1983-87
BLM	between City & VA (monitoring well)	1222	1976
63-S	36 th & Hill to Cartwright Rd. (@ 4 miles NW of above wells)	1200 ±	1920s-1930s
		600-1400 ±	1960s-1980s

REPORTED PUMPING

- BWSWD 1978-1983 averaged about 860 afa
- 1984 production about 1930 af (State & City started)
- Average afa 1980s-1990s: BWSWD 770, State 476, City 433, VA 447, total 2027
- Volume data unavailable for 63-S wells (combined estimate several hundred afa?)

Suggest: 63-S wells might need to reimplement measurement/reporting and include volume data to comply with GWMA Orders. Will help 63-S also.

03/22/2004

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

RIGHT NUMBER: 63-15

NAME AND ADDRESS: THE TERTELING CO INC
3823 N 36TH ST
BOISE ID 83703

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.800 CFS
400.000 AFY

The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.

PRIORITY DATE: 03/23/1927

POINT OF DIVERSION:

T04N R02E S22 NWNWSW Within ADA County
T04N R02E S28 NWNWSW Within ADA County
T04N R02E S29 NENESE Within ADA County
T04N R02E S29 NENESE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.040 CFS 0.60 AFY
IRRIGATION	01/01 12/31	0.800 CFS 38.00 AFY
HEATING	01/01 12/31	0.800 CFS 400.00 AFY

Domestic use is for business offices.

PLACE OF USE: DOMESTIC Within ADA County

T04N R02E S22	NESW	T04N R02E S22	SESW
T04N R02E S29	NESE		

IRRIGATION Within ADA County

T04N R02E S22	NESW	7.0	T04N R02E S22	SESW	0.5
T04N R02E S29	NESE	7.5			

HEATING Within ADA County

T04N R02E S22	NESW	T04N R02E S22	SESW
T04N R02E S29	NESE		

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

Right 63-15 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.

Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.

EXPLANATORY MATERIAL: Decreed

Water under Right 63-15 shall not be diverted or allowed to flow pending further direction from the court as described under the Silkey v. Tiegs decree dated 06-13-1930.

Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.

Diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing a priority date earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells recognized in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWRs own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.

The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.

Irrigation use is for inside commercial greenhouses and outside irrigation.

Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.

Use of water under this right may be affected by an agreement between the protestant and the right holder.

Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.

The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.

Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.

CONFIDENTIAL PRIVILEGED**MEMORANDUM**

TO: JAN SHURTE
FROM: NICK SPENCER *NBS*
RE: FLORA/TERTELING CONVEYANCE
DATE: NOVEMBER 19, 2001

Issue: At the time Flora conveyed to Terteling 1.5 acres less property than had been conveyed to it by Hunt Bros., was it proper for IDWR to split the appurtenant water rights in order to retain a *pro rata* share of the appurtenant water rights on the parcel that had not been conveyed to Terteling?

Conclusion: The water rights should not have been split. A review of the relevant deeds reveals that the 1.5 acre parcel in question had already been conveyed to the Petersons. The deed from Flora to the Petersons establishes that Flora retained ownership of the water rights appurtenant to the parcel conveyed to the Petersons. The deed from Flora to Terteling establishes that Flora intended to convey all of its water rights to Terteling, including the water rights Flora retained in the conveyance to the Petersons. Therefore Terteling owns the water rights appurtenant to the 1.5 acre parcel, but it does not own the underlying parcel itself. Accordingly, it needs to file a transfer to move those water rights off of the 1.5 acre parcel and onto other property it owns.

Discussion: By corporate warranty deed dated November 15, 1991, Hunt Bros. Floral, Inc., ("Hunt Bros.") conveyed to Flora Company ("Flora") two parcels of real property ("Parcel 1" and "Parcel 2") and the water rights appurtenant to those parcels. Unfortunately the description of the water rights conveyed by the deed is confusing and I suspect that a court could find it ambiguous. The description reads as follows:

All water, water rights, geothermal water rights, well rights, ditch rights and/or other water rights appurtenant to the premises including but not limited to decreed rights under Silkey v. Tieg's, et al., Case No. 11748 Ada County, Idaho District Court, dated June 30, 1930; and rights accrued under Claim No.s' 63-0012, 63-0013 and 63-0015 IDWR, to include forty-one (41) miner's inches for irrigation, stock, domestic, heating and other beneficial uses. [Emphasis added.]

If the description had ended at the semicolon it would have been reasonably clear. However, it went on to expressly reference three water rights by number, and to specify that the rights being conveyed included 41 inches of water. Unfortunately, the three rights in question contain 80 inches of water. Thus the question that immediately comes to mind is whether the full 80 inches or only 41 inches were intended to be conveyed.

CONFIDENTIAL PRIVILEGED

I think that the language can be construed to show an intent to convey the entire 80 inches. First, the description begins by specifying that "all" of the water rights are being conveyed. The list of the types of rights to be included also evidences an intent to be inclusive. The description then contains a clarifying sentence to the effect that the rights being conveyed are "not limited to" rights decreed in *Silkey v. Tiegs*. Again, this is language of inclusion, not exclusion. The remainder of the description then contains a phrase that could be construed as language of limitation: "to include forty-one (41) miner's inches...." Since the total quantity of all the rights is 80 inches, this language creates an impression of limitation, viz. that only 41 inches is being conveyed. However, the phrase does not need to be read that way, and given that all of the other language is language of inclusion, I do not believe that it should be read as language of limitation. Rather, it is language indicating an excess of caution. The grantor appears to simply be trying to emphasize that included within the universe of "all" of the water rights, is 41 inches for specific enumerated uses. In other words, the universe of all the rights (80 inches) includes within it 41 inches.

I believe this is the most sensible way to read the language. However, it is confusing. Were it to become the subject of litigation, and the court were faced with trying to construe it, the judge could well find the language ambiguous. If he were to do so, such a finding would allow him to consider evidence outside the four corners of the deed to determine what the intention of the parties to the transaction was. The best evidence of such intent is how the parties themselves construed the language, as established through their subsequent conduct. In this case we have evidence in the form of two subsequent deeds showing how the grantee—Flora—construed the language. Those deeds show that Flora believed it had been conveyed all of the water rights because in its subsequent conveyance to The Terteling Company, Inc., ("Terteling") it conveyed away all of the water rights.

Before reviewing the Flora to Terteling conveyance, one first should consider the preceding conveyance from Flora to Michael E. and Beth E. Peterson ("the Petersons"). (A copy of that deed, dated March 20, 1996 is attached.) That deed conveys Parcel 2, the 1.5 acres in question, to the Petersons. However, the deed contains the following express exception from the conveyance:

EXCEPTIONS FROM CONVEYANCE: Specifically excepted from this conveyance, and retained by Grantor for itself and its successors and assigns, are the geothermal well located in the northerly tip of the above described parcel along with and [sic] any and all water rights, including geothermal rights, associated with the above described parcel. [Emphasis added.]

This language clearly and unambiguously retains to Flora all of the water rights appurtenant to the parcel being conveyed to the Petersons.

About eleven months later, in a deed dated February 14, 1997, Flora conveyed Parcel 1 to Terteling, along with water rights. The description of these water rights, along with the geothermal well on the Peterson property and companion easement for its

CONFIDENTIAL PRIVILEGED

use compose the entirety of Schedule II to that deed, a copy of which you already have. The description is too long to quote in its entirety. Suffice it to say at this point that it conveys all of the water rights described in the deed from Hunt Bros. to Flora in the same all-inclusive language, except that it drops the confusing reference to 41 inches. Instead it expressly states that water right numbers 63-0012, 63-0013, and 63-0015, as claimed in the SRBA, total the full 80 inches. To further address the confusing language in the Hunt Bros. to Flora deed, it incorporates by reference the water right description in that deed. Clearly the purpose for this reference is to insure that should it ultimately be determined that the Hunt Bros. to Flora deed conveyed more or different water rights than Flora had been aware of (i.e. more than the 80 inches) those more and different rights that may have been conveyed to Flora by Hunt Bros. were likewise being conveyed on by Flora to Terteling.

Schedule II additionally expressly conveys to Terteling the geothermal well on Parcel 2 that had been retained by Flora, as well as all of the water rights on Parcel 2, which Flora had retained in its deed to the Petersons.

Thus it appears reasonably clear that Terteling has had conveyed to it all of the water rights—whatever they may be, and including the entire 80 inches—that were appurtenant to Parcel 1 and Parcel 2. Parcel 2 was sold to the Petersons without water rights. Terteling now owns all of the water rights that were appurtenant to Parcel 2, but since Terteling does not own the underlying acres themselves, cannot without the permission of the Petersons use those rights on the Peterson property.

Therefore, IDWR should not have split the water rights between Parcel 1 and Parcel 2 except to the extent necessary to show that the rights had been severed from Parcel 2, and that Terteling owns those rights, while the Petersons own the underlying acres. Since Terteling cannot use the rights that were severed from the Peterson parcel, it needs to file a transfer as soon as practically possible to move the rights onto other acres before they are forfeited for nonuse.

06/13/01 WED 13:44 FAX 208 1300

GIVENS PURSLEY LLP

002

06/13/01 10:47 FAX

→ GIVENS PURSLEY

002/003

1993001265

WARRANTY DEED

FOR VALUE RECEIVED, Flora Co., Inc. as Grantor, does hereby grant, bargain, sell and convey unto Michael E. Petersen and Beth E. Petersen, husband and wife, as Grantees, whose current address is 1016 S. Main, Boise, ID 83706, the following described premises in Ada County, Idaho, to-wit:

That portion of Section 28, Township 4 North, Range 2 East, Boise Meridian, in the County of Ada, State of Idaho, more particularly described as follows:

BEGINNING at the Quarter Section corner between Sections 28 and 29, Township 4 North, Range 2 East, Boise Meridian; thence

South 00 degrees 28' West 300 feet on Section line; thence

South 89 degrees 53' East 370 feet; thence

North 47 degrees 53' West 446 feet on center line of Foot Hill Road; thence

North 89 degrees 22' West 35.64 feet on center line of Section 28, to the PLACE OF BEGINNING.

EXCEPT road rights-of-way for Hill Road and N. 36th Street.

EXCEPTING the parcels deeded to Ada County Highway District in Corporate Warranty Deeds, Instrument Nos. 8306740 and 8385741 Official Records,

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto the said Grantees, and said Grantees' heirs and assigns, forever. And the said Grantor does hereby covenant to and with the said Grantees that the Grantor is the owner in fee simple of said premises, that said premises are free from all encumbrances except those of record, and that Grantor will warrant and defend the same from all lawful claims whatsoever which do not appear of record as of the date hereof.

EXCEPTIONS FROM CONVEYANCE: Specifically excepted from this conveyance, and retained by Grantor for itself and its successors and assigns, are the geothermal well located in the northerly tip of the above described parcel along with and any and all water rights, including geothermal rights, associated with the above described parcel.

DATED: this 20 day of March, 1996.

FLORA CO., INC.

96023748

ALLIANCE TITLE
ADA CO. RECORDER
J. DAVID HAVAPRO
BOISE ID

BY: *Charles L. Tully, Secretary*

96 MAR 21 AM 11:34
PER *10* REC'D *Michael*
RECORDED AT THE REQUEST OF

06/13/01 WED 13:44 FAX 208 8 1300

GIVENS PURSLEY LLP

0003

06/13/01 10:48 FAX

+ GIVENS PURSLEY

0003/003

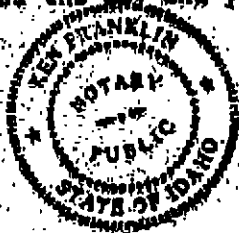
1993001269

STATE OF IDAHO)

County of Ada)

On this 24th day of March, 1996, before me, the undersigned,
a Notary Public in and for said State, personally appeared
Barbara J. Davis, the Secretary of Flora Co., Inc., known to
me to be the person who executed the within and foregoing
instrument for and on behalf of said Corporation, and acknowledged
to me that said Corporation executed the same.

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

[Signature]
Notary Public for IdahoResiding At: BoiseMy Commission Expires: 10-4-98

Memorandum

Date: June 20, 2000

To: Susan Hamlin

From: Jan Shurte

Subject: Ownership Change

Attached are the ownership changes we have received to date on 63-00012, 63-00013 & 63-00015.

When we first received the one from Hunt Bros. Floral, Inc. to Flora Co. we changed the ownership on the entire rights. This was due to the legal description matching what was claimed by Hunt Bros. In looking at their Corporate Warranty Deed it states all water, water right, geothermal water rights (which these are), etc., and then right accrued under Claim No.'s 63-00012, 63-00013 & 63-00015 IDWR, to include forty-one (41) miner's inches for irrigation, stock, domestic, heating and other beneficial uses." The total inches for 63-00012, 00013 & 00015 is 80 inches of water. So, my first question is did this deed limit the transfer of 41" or because it mentions all right accrued under these rights it should have included all 80". In either case we did change all 80" under all three rights to Flora Co.

Then, Terteling brought in a change of ownership and the legal description eliminated 1.5 acres in Sec 28. So, we split the water right and John Marshall has been acting on behalf of Givens & Pursley and has pointed out to me that even though Sec. 28 is excepted in Schedule I of their attachment to the Warranty Deed, it states in Schedule II that rights acquired under 63-00012, 63-00013 & 63-00015, which water rights are for 80 miner's inches , etc. go with the Warranty Deed transaction also.

So, I am in a situation where I need legal advise. On the face of it I could go with the last warranty deed from Flora, who did own all the property and it does look like they sold the entire 80", but not the entire land. John did say that this is Terteling's understanding and that they do have all three wells also – which is pointed out in Part 2 of Schedule II. The only part that bothers me is the first deed talking about 41" – yet they owned all the land.

Could you have someone look at all this for me and let me know a legal opinion?



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

DATE: JANUARY 15, 1992

CECIL D. ANDRUS

FLORA CO.

C/O JEFF JAYO

3823 N 36TH STREET

BOISE ID 83702

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

NOTICE OF CLAIM NO.(S)

A63-00012

A63-00013

A63-00015

Dear Jeff Jayo,

Enclosed is a copy(s) of the above referenced claim(s) which reflects the **CHANGE IN OWNERSHIP** of the lands and appurtenant water rights covered by this claim(s).

The Department will contact you in the future concerning any requirements that may be needed in order to process this claim(s) for final court decree.

If you have any questions concerning the enclosed claims(s), feel free to contact this office.

Sincerely,

Ron Howerton
Senior Water Agent
Adjudication Bureau

cc: File(s)

A63-00012

A63-00013

A63-00015

William R Snyder

MICROFILMED

AUG 14 1992

COFFIN, SNYDER & MATTHEWS,

A Professional Association
ATTORNEYS AND COUNSELORS

STEVEN R. MATTHEWS*
WILLIAM R. SNYDER
KENT E. NELSON
TERRY E. COFFIN

LLOYD E. HAIGHT,
OF COUNSEL

*ADMITTED IN IDAHO
AND COLORADO

520 WEST FRANKLIN STREET, UPPER LEVEL
BOISE, IDAHO 83702
(208) 336-9080

RECEIVED
NOV 22 1991

NOV 26 1991

MAILING ADDRESS
POST OFFICE BOX 2338
BOISE, IDAHO 83701-2338

FACSIMILE
(208) 343-4539

Department of Water Resources
Western Regional Office

Department of Water Resources

November 21, 1991

Idaho Department of Water Resources
Attention: Keith Higginson, Director
1301 North Orchard Street
Boise, Idaho 83706

Dear Mr. Higginson:

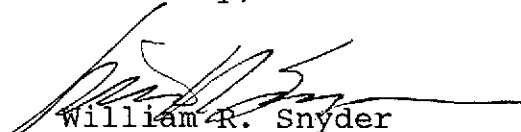
This letter is written to you on behalf of Flora Co., an Idaho corporation. On November 15, 1991, Flora Co. purchased all of the water rights of Hunt Bros. Floral Company appurtenant to parcels of about seven and one-half acres in the vicinity of 36th Street and Hill Road in Boise, Idaho.

For purposes of complying with Idaho Code §42-1409(7), I'm enclosing a copy of a warranty deed more particularly describing the transfer. Please make sure the transfer is duly noted on IDWR records. If anything further is required concerning property transfer, please let me know.

Finally, if Flora Co. needs to coordinate any of its water use activities with your department, feel free to contact Jeff Jayo at 3823 N. 36th Street, Boise, Idaho, 83702. The phone number is 344-3751.

Thanks for your attention and courtesy.

Sincerely,


William R. Snyder

WRS:bn

Enclosure

cc: Flora Co.

MICROFILMED

AUG 14 1992

**RINGERT
CLARK**
CHARTERED
LAWYERS

November 5, 1991

RECEIVED
NOV 06 1991

William F. Ringert
D. Blair Clark
Andrew M. Harrington
James G. Reid
Jeffrey R. Christenson
James P. Kaufman
Laura E. Burri
David Hammerquist
Daniel V. Steenson
Samuel Kaufman (1921-1986)

Mr. David B. Shaw
Chief, Adjudication Section
Idaho Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83706

Department of Water Resources

Re: Claims Nos. 63-00012, 63-00013 and 63-00015
In the Name of Hunt Bros. Floral, Inc.

Dear Mr. Shaw:

Please substitute this for my letter of November 4, 1991, regarding Claims Nos. 63-00012, 63-00013 and 63-00015, which contains errors and should be disregarded.

For purposes of a proposed sale of the property to which the water rights identified above are appurtenant, please verify for me that proper claims have been filed with respect to these water rights in the Snake River Basin Adjudication, Twin Falls County Case No. 39576, as follows:

1. The points of diversion under all three water rights are located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28 and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, Township 4 North, Range 2 East, B.M., Ada County;

2. The priority dates, quantities for irrigation use and heating use, and places of use are as follows:

<u>WATER RIGHT NO.</u>	<u>QUANTITY FOR IRRIGATION & HEATING</u>	<u>PRIORITY DATE</u>	<u>PLACE OF USE</u>
63-00012	0.66 cfs	7/1/21	NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28 (1.5 acres) and NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 29 (6.0 acres)
63-00013	0.14 cfs	7/1/22	NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28 (1.5 acres) and NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 29 (6.0 acres)

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AUG 14 1992

Mr. David B. Shaw
November 5, 1991
Page 2

63-00015

0.80 cfs

3/23/27

NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28
(1.5 acres) and
NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 29
(6.0 acres)

I apologize for any inconvenience that the errors in my letter of November 4th might have caused you or your staff.

Yours very truly,



W. F. Ringert

WFR:am

MICROFILMED

AUG 14 1992



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

November 6, 1991

Mr. W. F. Ringert
Ringert Clark Chartered Lawyers
PO Box 2773
Boise ID 83701

RE: Claim Nos. A63-00012, A63-00013, and A63-00015

Dear Bill:

Enclosed are the copies of the information on file with the Department of Water Resources for the above referenced claims.

These claims have been received and receipted by the Department, but have not yet been investigated.

Please feel free to contact me if I can be of further assistance.

Yours truly,

A handwritten signature in cursive script, appearing to read 'David B. Shaw'.

David B. Shaw
Adjudication Bureau Chief

Enc.

MICROFILMED

AUG 14 1992

**RINGERT
CLARK**
CHARTERED
LAWYERS

November 4, 1991

William F. Ringert
D. Blair Clark
Andrew M. Harrington
James G. Reid
Jeffrey R. Christenson
James P. Kautman
Laura E. Burri
David Hammerquist
Daniel V. Steenson

Samuel Kaufman (1921-1986)

RECEIVED
NOV 05 1991

Mr. David B. Shaw
Chief, Adjudication Section
Idaho Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83706

Department of Water Resources

Re: Claims Nos. 63-00012, 63-00013 and 63-00015
In the Name of Hunt Bros. Floral, Inc.

Dear Mr. Shaw:

For purposes of a proposed sale of the property to which the water rights identified above are appurtenant, please verify for me that proper claims have been filed with respect to these water rights in the Snake River Basin Adjudication, Twin Falls County Case No. 39576, as follows:

1. The points of diversion under all three water rights are located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28 and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, Township 4 North, Range 2 East, B.M., Ada County;

2. The priority dates, quantities for irrigation use and heating use, and places of use are as follows:

<u>WATER RIGHT NO.</u>	<u>QUANTITY FOR IRRIGATION & HEATING</u>	<u>PLACE OF USE</u>
63-00012	0.66 cfs	NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 18 (1.5 acres)
63-00013	0.14 cfs	and NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 18 (1.5 acres)
63-00015	0.80 cfs	NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 29 (6.0 acres)

3. Each claim includes 0.03 cfs for stock water and 0.04 cfs for domestic use;

MICROFILMED

AUG 14 1992

Mr. David B. Shaw
November 4, 1991
Page 2

4. The source for all three water rights is groundwater.

Please advise if you require any additional information in order to enable you to provide the requested verification.

Yours very truly,


W. F. Ringert

WFR:am

MICROFILMED

AUG 14 1992

CONVERSATION MEMORANDUM

DATE

8/18/84

FILE

A63-00012

NAME OF PARTY

Robert Hunt, Hunt ^{Rev.} Floral, Inc

- 00013

- 00015

EMPLOYEE

John Lester

RE:

7 1/2 acres in each claim are the same 7 1/2 acres
so fee ($\$7.50 = \8.00) for acres changed over.

A63-00012 $\$50 + \$8 + \$14 = \72
 acres irrig

A63-00013 $\$50 + \$66 = \$116$
 irrig

A63-00015 $\$50 + \$80 = \$130$

$\$318$

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AUG 14 1992

Claimant wanted to keep irrig. use instead of changing
to commercial for comm. greenhouses. Stated irrig. season
as 1/1-12/31. Stated 7 1/2 ac. irrigated.

St. doubted that 7 1/2 ac. are irrigated. A more proper
description of use is commercial 1/1-12/31. This would
allow (or be a better ~~argument~~ ^{argument} for) full flow rate to
be protected instead of limiting flow rate based on
b.w. for # acres irrigated.

The stock use refers to misc. : chickens, turkeys,
etc. Type of stock has varied over the years.
Used .03 cfs flow based on probable max. for 70 Ld.
cattle. Actual b.w. for stock may be less.

RECEIVED

OCT 11 2002

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES***AMENDED*****TRANSFER OF WATER RIGHT*****AMENDED***

TRANSFER NO. 68558

This is to certify that: THE TERTELING COMPANY INC
3823 N 36TH ST
BOISE ID 83703
(208)338-5200

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acres	Total	Source
63-12	AJC/Decreed	07/01/1921	0.14 cfs			7.5	GROUND WATER
63-13	AJC/Decreed	07/01/1922	0.66 cfs			7.5	GROUND WATER
63-15	AJC/Decreed	03/23/1927	0.80 cfs			7.5	GROUND WATER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
63-12	NO	NO	YES	YES	NO	NO
63-13	NO	NO	YES	YES	NO	NO
63-15	NO	NO	YES	YES	NO	NO

**
Amended
transfer
68558*

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
63-12	63-12	0.14 cfs	101.4 af	6.0	15.0		N/A	N/A	N/A	N/A
63-13	63-13	0.66 cfs	400.0 af	6.0	15.0		N/A	N/A	N/A	N/A
63-15	63-15	0.80 cfs	400.0 af	6.0	15.0		N/A	N/A	N/A	N/A
TOTALS		0.86 cfs	400.0 af	6.0	15.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this

9th

day of

October

, 20

02

J. Glen Sauter
Chief, Water Allocation Bureau

WATER RIGHT NO. 63-12
As Modified by Transfer No. 68558

In accordance with the approval of Transfer No. 68558, Water Right No. 63-12 is now described as follows.

Right Holder: THE TERTELING COMPANY INC
 3823 N 36TH ST
 BOISE ID 83703

Priority Date: 07/01/1921

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
HEATING	01/01 to 12/31		0.14 CFS	101.4 AF
DOMESTIC	01/01 to 12/31		0.04 CFS	0.6 AF
IRRIGATION	01/01 to 12/31		0.14 CFS	38.0 AF
			0.14 CFS	101.4 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWNWSW Sec. 22Twp 04N Rge 02E ADA County
GROUND WATER	NWNWSW Sec. 28 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County

PLACE OF USE: HEATING & DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02E 22								X				X					
04N 02E 29													X				

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	
04N 02E 22								7.0				.5					7.5
04N 02E 29													7.5				7.5

Total Acres: 15

WATER RIGHT NO. 63-12
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

1. Right 63-12 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.
2. Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.
3. The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.
4. Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.
6. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
7. The Silkey v. Tiegs decree specifically addressed and protected artesian pressure in the aquifer. The Department, in deference to the Silkey decree, will refrain from examining whether the artesian pressure in Stewart Gulch constitutes a reasonable pumping level and is in the public interest pursuant to I.C. § 42-226 until such time as the court addresses the issue in the Snake River Basin Adjudication.
8. The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermaster's annual report to IDWR.
9. Unless otherwise determined by the Snake River Adjudication, diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing priority dates earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWR's own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.
10. Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.

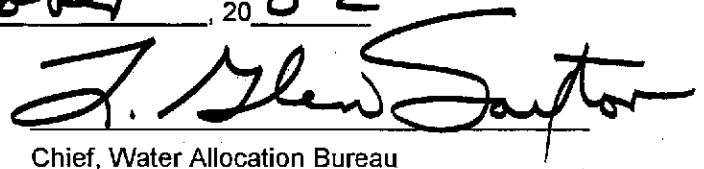
WATER RIGHT NO. 63-12
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

11. Use of water under this right may be affected by an agreement between the protestant and the right holder.
12. Irrigation use is for inside commercial greenhouses and outside irrigation.
13. Domestic use is for business offices.
14. The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.
15. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
16. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
17. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
18. Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 9th day of October, 2002


Chief, Water Allocation Bureau

WATER RIGHT NO. 63-13
As Modified by Transfer No. 68558

In accordance with the approval of Transfer No. 68558, Water Right No. 63-13 is now described as follows.

Right Holder: THE TERTELING COMPANY INC
 3823 N 36TH ST
 BOISE ID 83703

Priority Date: 07/01/1922

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	01/01	to 12/31	0.66 CFS	38.0 AF
DOMESTIC	01/01	to 12/31	0.04 CFS	0.6 AF
HEATING	01/01	to 12/31	0.66 CFS	400.0 AF
			0.66 CFS	400.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWNWSW Sec. 22 Twp 04N Rge 02E ADA County
GROUND WATER	NWNWSW Sec. 28 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA 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		
04N 02E 22									7.0				.5					7.5
04N 02E 29																7.5		7.5

Total Acres: 15

PLACE OF USE: DOMESTIC & HEATING

Twp Rge Sec	NE				NW				SW				SE				Totals	
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
04N 02E 22									X				X					
04N 02E 29																X		

WATER RIGHT NO. 63-13
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

1. Right 63-13 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.
2. Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.
3. The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.
4. Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.
6. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
7. The Silkey v. Tiegs decree specifically addressed and protected artesian pressure in the aquifer. The Department, in deference to the Silkey decree, will refrain from examining whether the artesian pressure in Stewart Gulch constitutes a reasonable pumping level and is in the public interest pursuant to I.C. § 42-226 until such time as the court addresses the issue in the Snake River Basin Adjudication.
8. The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.
9. Unless otherwise determined by the Snake River Adjudication, diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing priority dates earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWR's own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.
10. Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.

WATER RIGHT NO. 63-13
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

11. Use of water under this right may be affected by an agreement between the protestant and the right holder.
12. Irrigation use is for inside commercial greenhouses and outside irrigation.
13. Domestic use is for business offices.
14. The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.
15. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
16. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
17. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
18. Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 9th day of October, 2002


Chief, Water Allocation Bureau

WATER RIGHT NO. 63-15
As Modified by Transfer No. 68558

In accordance with the approval of Transfer No. 68558, Water Right No. 63-15 is now described as follows.

Right Holder: THE TERTELING COMPANY INC
 3823 N 36TH ST
 BOISE ID 83703

Priority Date: 03/23/1927

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DOMESTIC	01/01 to 12/31		0.04 CFS	0.6 AF
IRRIGATION	01/01 to 12/31		0.80 CFS	38.0 AF
HEATING	01/01 to 12/31		0.80 CFS	400.0 AF
			0.80 CFS	400.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWNWSW Sec. 22 Twp 04N Rge 02E ADA County
GROUND WATER	NWNWSW Sec. 28 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County

PLACE OF USE: DOMESTIC & HEATING

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02E 22									X				X				
04N 02E 29														X			

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	
04N 02E 22									7.0			.5					7.5
04N 02E 29													7.5				7.5

Total Acres: 15

WATER RIGHT NO. 63-15
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

1. Right 63-15 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.
2. Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.
3. The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.
4. Water under Right 63-15 shall not be diverted or allowed to flow pending further direction from the court as described under the *Silkey v. Tiegs* decree dated 06-13-1930.
5. Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.
6. Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.
7. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
8. The *Silkey v. Tiegs* decree specifically addressed and protected artesian pressure in the aquifer. The Department, in deference to the *Silkey* decree, will refrain from examining whether the artesian pressure in Stewart Gulch constitutes a reasonable pumping level and is in the public interest pursuant to I.C. § 42-226 until such time as the court addresses the issue in the Snake River Basin Adjudication.
9. The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.
10. Unless otherwise determined by the Snake River Adjudication, diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing priority dates earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells in the *Silkey v. Tiegs* decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWR's own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.

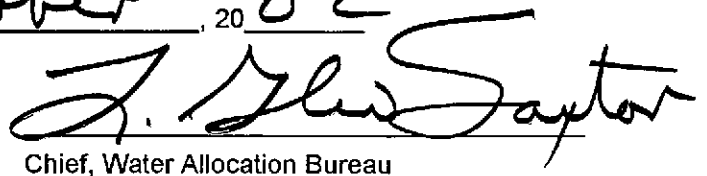
WATER RIGHT NO. 63-15
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

11. Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.
12. Use of water under this right may be affected by an agreement between the protestant and the right holder.
13. Irrigation use is for inside commercial greenhouses and outside irrigation.
14. Domestic use is for business offices.
15. The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion..
16. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
17. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
18. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
19. Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 9th day of October, 2002


Chief, Water Allocation Bureau



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 9, 2002

Re: In the matter of Application for Transfer No. 68558 in the name of Terteling Company, Inc.

Dear Interested Parties:

The Department of Water Resources (department) has issued the enclosed **Amended Preliminary Order and Order Denying Petition for Reconsideration** pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.**

If you have any questions, please call me at (208) 327-7953.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosures

✓ IDWR - Regional Office Manager

RECEIVED

AUG 12 2002

WATER RESOURCES
WESTERN REGION

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 68558 IN THE)
NAME OF TERTELING COMPANY INC)
_____)

**AMENDED PRELIMINARY ORDER
AND ORDER DENYING PETITION
FOR RECONSIDERATION**

This matter having come before the Idaho Department of Water Resources ("IDWR") in the form of an application for transfer, IDWR enters the following Findings of Fact and Order:

FINDINGS OF FACT

On September 19, 2000, The Terteling Company, Inc. ("Terteling") filed Application for Transfer No. 5875 ("application") with IDWR proposing to change the place of use and add points of diversion for water right nos. 63-12, 63-13, and 63-15. The application was later renumbered to 68558. The water rights were decreed in the case of Silkey v. Tiegs, 51 Idaho 344, 5 P.2d 1049 (1931) that authorized diversion of low temperature geothermal water.

The application was protested by the Edwards Family LLC ("Edwards"), the owner of water right no. 63-14, one of the water rights decreed in Silkey. The parties reached an agreement resulting in suspension of the protest. Complete withdrawal of the protest was contingent upon inclusion of agreed-to conditions in the final approval of the transfer by IDWR.

On June 3, 2002, IDWR approved transfer no. 68558. Condition No. 9 of the approval stated:

Diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing priority dates earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells in the Silkey v. Tiegs decree.

On July 8, 2002, Terteling filed a PETITION FOR RECONSIDERATION arguing that IDWR should not protect historical artesian pressure. Terteling requested that the language of the condition be modified to establish and protect reasonable pumping levels. Terteling argues that "the unique protection of artesian pressure in the Silkey v. Tiegs decree . . . applies only to applicant's rights 63-12 and 63-13."

There is no language in the Silkey v. Tiegs decree that states the court only intended to protect artesian pressure for water right nos. 63-12 and 63-13. Water right

no. 63-14, owned by Edwards, was limited, but other rights, including 63-15, now owned by Terteling and approved for diversion by the transfer contested by Terteling, were totally curtailed presumably to protect artesian pressure in the aquifer. The total curtailment was intended to protect all the water rights bearing earlier priority dates, not just the two senior priority water rights.

On October 27, 1993, the director of IDWR issued an ORDER DENYING PETITIONS FOR REHEARING AND AMENDED MEMORANDUM DECISION AND ORDER in a contested case regarding the regulation of the low temperature geothermal resources in Stewart Gulch. At that time, Terteling asked IDWR to establish reasonable pumping levels. Conclusion of Law no. 7 of the order states:

Because the Silkey decree specifically addressed and protected artesian pressure in the aquifer, the Department, in deference to the Silkey decree, will refrain from examining whether the artesian pressure in Stewart Gulch constitutes a reasonable pumping level and is in the public interest pursuant to I.C. § 42-226 until such time as the court addresses the issue in the Snake River Basin Adjudication.

IDWR determined in 1993 that the Silkey v. Tiegs decree protects artesian pressure. IDWR will not eliminate this protection in the condition and should add language to the condition allowing modification by the Snake River Basin Adjudication Court as set forth in the previous decision.

On August 6, 2002, Terteling filed a MOTION TO STRIKE EDWARD'S FAMILY LLC'S RESPONSE TO PETITION FOR RECONSIDERATION AND SUPPORTING AFFIDAVITS ("Motion to Strike") filed by Edwards. The motion was based on an argument that the order suspending the protest and the agreement between Terteling and Edwards prohibited the filing of the response.

IDWR need not decide whether to strike the response because Terteling's petition asks for a determination of Edwards' status as a party. IDWR will accept submittals from those who are not parties prior to making a decision.

Terteling also asked for an order from IDWR authorizing diversion of water from the Windsock Well prior to final approval of the application for transfer by IDWR. A separate order specifically authorizing diversion from this new well is not appropriate, since this Amended Preliminary Order that modifies the Preliminary Order issued on June 3, 2002 allows diversion of water under terms of the Preliminary Order as herein amended.

ORDER

IT IS HEREBY ORDERED that the petition for reconsideration filed by The Terteling Company, Inc, is **DENIED**.

IT IS FURTHER ORDERED that a new condition of transfer approval will be **ADDED** as follows and identified as Condition No. 7:

The Silkey v. Tiegs decree specifically addressed and protected artesian pressure in the aquifer. The Department, in deference to the Silkey decree, will refrain from examining whether the artesian pressure in Stewart Gulch constitutes a reasonable pumping level and is in the public interest pursuant to I.C. § 42-226 until such time as the court addresses the issue in the Snake River Basin Adjudication.

IT IS FURTHER ORDERED that the former Condition No. 7 on the transfer will become Condition No. 8, and will be **CHANGED** to read as follows:

Unless otherwise determined by the Snake River Adjudication, diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing priority dates earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWR's own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.

IT IS FURTHER ORDERED that the Motion to Strike filed by Terteling is **DENIED.**

Dated this 9th day of August, 2002.


L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

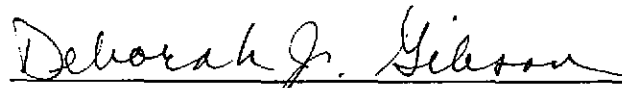
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of August, 2002, the above and foregoing document was served on the following by faxing a copy of the same at the noted fax number, and by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

JEFFREY C FEREDAY
JOHN M MARSHALL
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701-2720
Fax: 388-1300

GARY SPACKMAN
WESTERN REGIONAL MANAGER
IDAHO DEPT. OF WATER
RESOURCES
2735 AIRPORT WAY
BOISE ID 83705-5082
Fax: 334-2348

DANA L HOFSTETTER
HOFSTETTER LAW OFFICES
608 W FRANKLIN ST
BOISE ID 83702
Fax: 424-8774



Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Responding To Preliminary Orders Issued By The Idaho Department Of Water Resources

The accompanying order is a Preliminary Order issued by the Idaho Department of Water Resources (department) pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

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

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

ORAL ARGUMENT

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