

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

SEP 27 2010

By _____

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

In Re SRBA	)	Subcase No. 63-7595
	)	
Case No. 39576	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

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

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

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

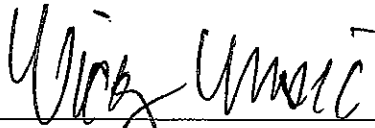
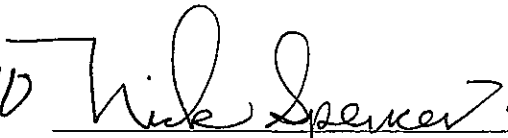
CLAIMANT/OBJECTOR:
The Terteling Company, Inc.

OBJECTOR/RESPONDENT:
Edwards Family, LLC

Charles L. Honsinger 09/27/10
Charles L. Honsinger Date
Attorney for Claimant/Objector

William H. Edwards 9/27/10
By: Date
Title: Attorney

IDWR Concurrence:

	
<u>9-23-10</u>	<u>9-24-10</u>
Vicky L. Music	Nicholas B. Spencer
Senior Water Resource Agent	Deputy Attorney General
	Attorney for IDWR

09/10/2010

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

RIGHT NUMBER: 63-7595

NAME AND ADDRESS: THE TERTELING CO INC
3858 GARDEN CENTER WY STE 300
BOISE ID 83703

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.800 CFS 2.0
420.50 AFY 465.50

VLM
NBS
C2.7
K4H

This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands described below.

~~The rights listed below are limited to a total combined diversion rate of 2.83 cfs and to a total combined annual diversion volume of 771.5 AF. Combined Right Nos. 63-3603, 63-7595.~~

PRIORITY DATE: 03/07/1973

POINT OF
DIVERSION:

T04N R02E S22 NWNE Within ADA County
~~T04N R02E S22 NENW Within ADA County~~
T04N R02E S22 SWNW Within ADA County
T04N R02E S22 NWSW Within ADA County

The well in the NWNWSW, S22 diverts low temperature geothermal water. The wells located in the SESWNW, S22 and NENWNE, S22 divert both low temperature geothermal and cold water.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	01/01 12/31	0.050 CFS 2.00 AFY
IRRIGATION	03/15 11/15	~~1.800 CFS~~ 2.0 cfs 418.50 AFY 463.50 VLM

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

~~The cold water authorized under this right will be used to the extent possible before the low temperature geothermal water authorized under this right is used.~~

~~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.~~

PLACE OF USE: IRRIGATION in ADA County

T04N R02E S21	SENE	1.00	T04N R02E S21	NESE	8.00
T04N R02E S22	NWNE	8.00	T04N R02E S22	NENW	~~11.00~~ 21.00
04N R02E S22	NWNW	10.00	T04N R02E S22	SWNW	27.00
T04N R02E S22	SENW	1.00	T04N R02E S22	NESW	3.00
T04N R02E S22	NWSW	14.00	T04N R02E S22	SWSW	3.00
T04N R02E S22	SESW	3.00	T04N R02E S22	NWSE	4.00

STOCKWATER in ADA County

T04N R02E S22 SWNW
93 103 ACRES TOTAL

VLM
NBS
C.2.X
H2H

The rights listed below are limited to the irrigation of a combined total of ~~171~~ 178 acres in a single irrigation season. Combined Right Nos.: Combined Right Nos.: 63-12, 63-13, 63-15, 63-308, 63-3603, 63-7595, 63-27649, 63-27671, 63-31050, 63-31052, 63-31053, 63-31054, 63-31055 and 63-31056.

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.

This right is subject to the conditions of the Final Order in the matter of Application for Transfer No. 4202.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

The points of diversion are also known as the Pool Well (T4N R2E S22 SESWNW), the Windsock Well (T4N R2E S22 NWNWSW). There are two points of diversion in the NWNE S22, the Champagne well (T4N R2E S22 SENWNE) and the Motorcycle Well (T4N R2E S22 NENWNE).

Water temperature in the Pool (geothermal aquifer) and Windsock wells is measured at 120 degrees F.

Right No. 63-3603 is also diverted through two of the points of diversion described above. also known as the Motorcycle Well and the Pool Well.

The Pool well that is one of the points of diversion is completed in concentric casings. The 10 inch casing is completed in a cold water aquifer. The 8 inch casing within the 10 inch casing is completed in the low temperature geothermal aquifer locally known as the Stewart Gulch Geothermal Aquifer. This right authorizes the diversion from both the low temperature geothermal and the cold water aquifers in the Pool well.

The Motorcycle Well that is one of the points of diversion for this water right was constructed with a "nested" configuration. Two side-by-side but separate well casings (with screens) are installed inside of a single 28-inch diameter drilled bore. An 8-inch diameter casing is completed to an approximate depth of 334 feet below land surface within a cold-water aquifer. A 16-inch diameter casing is completed to a depth of 685 feet below land surface within a low temperature geothermal aquifer. This right authorizes diversion from both the low temperature geothermal and the cold water aquifers from the Motorcycle Well.

Diversion and use of low temperature geothermal resource water under the terms of the license is subject to the control of the watermaster of Water District No. 63S, Stewart Gulch. Water District 63S regulates the water rights from wells within its boundary that produce from the low temperature geothermal aquifer known locally as the Stewart Gulch Geothermal Aquifer. The Motorcycle geothermal well is currently not within Water District 63S boundaries and is currently not subject to regulation by the watermaster of Water District 63S.

The SRBA Court declined to address the administrative issues of artesian pressure and reasonable pumping levels related to diversions from the low temperature geothermal aquifer locally known as the Stewart Gulch Geothermal Aquifer. Water users may raise these administrative matters directly with IDWR.

The right holder shall use the full allotment of his surface water right, to the extent it is available, in conjunction with groundwater diverted pursuant to this right.

The right holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.

~~This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.~~

Stockwater use is for 150 mixed stock.

~~Water is 120 degrees F geothermal water.~~

VMM
NBS
C.L.H.
KDY

CERTIFICATE OF MAILING

I certify that on Sept. 27, 2010, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

VIA HAND DELIVERY

2. Copies to:

THE TERTELING COMPANY, INC.
Represented by:
CHARLES L. HONSINGER
455 S. THIRD STREET
P.O. BOX 2773
BOISE, ID 83701-2773

// //

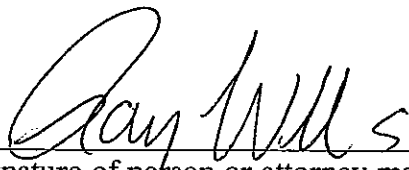
EDWARDS FAMILY, LLC
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702

// //

EDWARDS FAMILY, LLC
Represented by:
DEBRA K. ELLERS
P.O. BOX 1030
MCCALL, ID 83638

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

// //



Signature of person or attorney mailing the form