

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
SEP 27 2010	
By _____	Clerk
_____	Deputy Clerk

**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. 63-3603
	)	
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

Wanda H. Hensley 9/27/10

By: _____ Date
Title: Attorney

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

Date _____

Senior Water Resource Agent

Nicholas B. Spencer

Date _____

Deputy Attorney General

Attorney for IDWR

9/10/2010

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

RIGHT NUMBER: 63-3603

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

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.030 CFS
351 AFY

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 irrigation of 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: 04/26/1967

POINT OF
DIVERSION:

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

The well in the NWNWSW, S22 diverts low temperature geothermal water. The well located in the NWNENW, S22 has been measured at both 97 degrees F and 70 degrees F. The other points of diversion divert both low temperature geothermal and cold water.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	1.030 CFS 351.00 AFY

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.

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

PLACE OF USE: IRRIGATION in ADA County

T04N R02E S22	NENW	3.00	T04N R02E S22	NWNW	5.00
T04N R02E S22	SWNW	3.00	T04N R02E S22	NESW	20.00
T04N R02E S22	NWSW	22.00	T04N R02E S22	SESW	12.00

T04N R02E S22 NWSE 13.00

78 ACRES TOTAL

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.: 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.

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), the Terteling Springs Well (T4N R2E S22 NWNENW) and the Motorcycle Well (T4N R2E S22 NENWNE).

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 water under this right from the Pool and Windsock wells is subject to regulation by the watermaster of Water District 63S. 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 low temperature geothermal well is currently not within Water District 63S boundaries and is currently not subject to regulation by the watermaster of Water District 63S.

Water temperature in the Pool (geothermal aquifer) and Windsock wells is measured at 120 degrees F. Water temperature in the Terteling Springs Well has been measured at both 97 degrees F and 70 degrees F. The determination as to whether the Terteling Springs Well source is low temperature geothermal has not been made.

Right No. 63-7595 is also diverted through ~~two~~ three of the points of diversion described above, also known as the Pool Well, the Windsock Well and the Motorcycle Well.

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.

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 irrigation of the lands above.

Approval of transfer no. 3990 authorizes the diversion of water from one

VLM
NBS
C.2.7X
10/2/01

~~Approval of transfer no. 3990 authorizes the diversion of water from one producing well only.~~

~~The right holder shall accomplish the change authorized by transfer no. 3990 within one (1) year of the date of its approval.~~

~~Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.~~

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

~~Transfer 3990 does not authorize the use of water with a temperature greater than 85 degrees F.~~

~~Failure of the right holder to comply with the conditions of transfer no. 3990 is cause for the Director to issue an order cause why the approval of the transfer should not be rescinded.~~

VLM
NBS
C.2, K
R. L. H.

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

W A 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

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EDWARDS FAMILY, LLC

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

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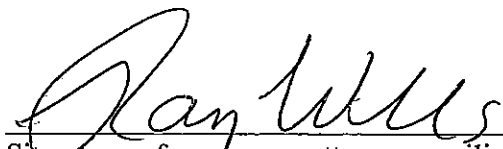
EDWARDS FAMILY, LLC

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

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

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Signature of person or attorney mailing the form