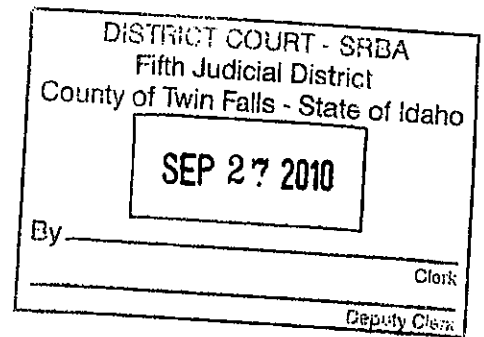




**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Subcase No. 63-12

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.

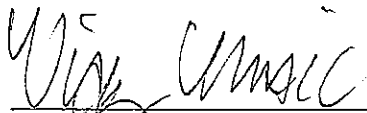
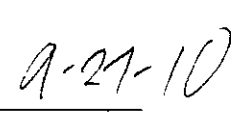
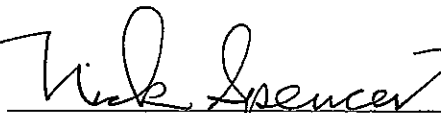
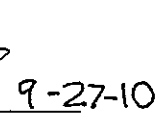
RESPONDENT:

Edwards Family, LLC

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

Angelle K Edwards 9/27/10
By: Date
Title: *owner Edwards Family LLC*

IDWR Concurrence:

			
Vicky L. Music	Date	Nicholas B. Spender	Date
Senior Water Resource Agent		Deputy Attorney General	
		Attorney for IDWR	

9/24/2010

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

RIGHT NUMBER: 63-12

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

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.140 CFS
101.40 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: 07/01/1921

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

All wells divert low temperature geothermal water.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
HEATING	01/01 12/31	0.140 CFS 101.40 AFY
DOMESTIC	01/01 12/31	0.040 CFS 0.60 AFY
IRRIGATION	01/01 12/31	0.140 CFS 38.00 AFY

Domestic use is for business offices.

Irrigation use is for inside commercial greenhouses and outside irrigation.

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 S22	NESW	7.00	T04N R02E S22	SESW	0.50
T04N R02E S29	NESE	7.50			

HEATING in ADA County

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

VLM
NBS
C.2.2
6/1/11

DOMESTIC in ADA County

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

15 ACRES TOTAL

Right 63-12 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.

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, ~~63-31054~~ 63-31056. Right Nos. 63-12, 63-13 and 63-15 are not subject to this combined place of use limitation when used in S 29.

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.

Diversion from the Windsock well (NWNWSW S22 T4N R2E) shall not significantly reduce artesian pressure for water rights ~~within the~~ under the authority of Water District 63-S boundary with a priority date earlier than December 20, 2000, ~~that divert water from the low temperature geothermal aquifer known locally as the Stewart Gulch Geothermal Aquifer.~~ Upon written complaint of significant reduction from the holder of such a water right ~~as described herein,~~ to the Watermaster 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.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Water temperature is measured at 120 degrees F.

The points of diversion are also known as the Windsock well (T4N R2E S22 NWNWSW), the Tiegs well (T4N R2E S 28 NWNWSW) and the Silkey House well and the Silkey Shed well, which are both located in T4N R2E S29 NENESE.

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

VWM
NBS
C.27X
GK

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

~~The Silkey v. Ties 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.~~

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

~~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.~~

~~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.~~

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

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

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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

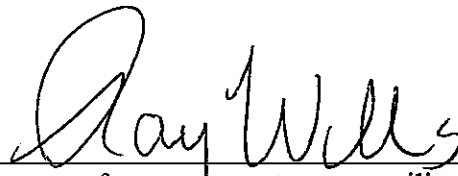
Represented by:
DEBRA K. ELLERS
P.O. BOX 1030
MCCALL, ID 83638

DIRECTOR OF IDWR

P.O. BOX 83720
BOISE, ID 83720-0098

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Signature of person or attorney mailing the form