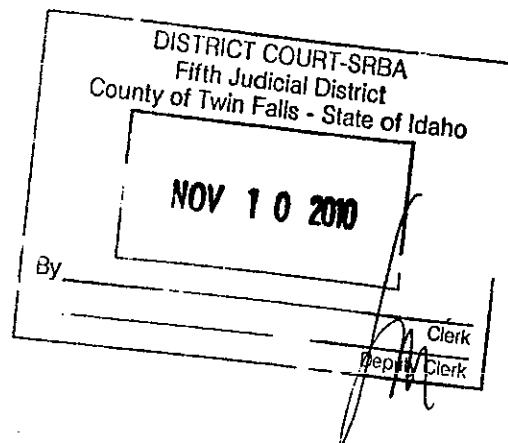




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

Subcase No. 63-5195

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

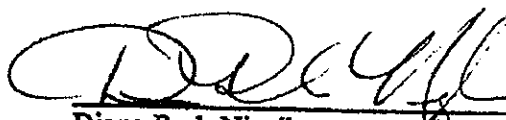
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary 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(s):

 9/21/10
David Niznik Date

 9/21/10
Diane Peck-Niznik Date

OBJECTOR(s):

The Terteling Company, Inc.

Charles L. Honsinger 9/23/10

Charles L. Honsinger Date
Attorney for Claimant/Objector

~~Edwards Family, LLC~~

~~By: Date
Title:~~

IDWR Concurrence:

Vicky L. Music 9-21-10

Vicky L. Music Date
Senior Water Resource Agent

Nicholas B. Spencer 9-21-10

Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

9/21/10

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

RIGHT NUMBER: 63-5195

NAME AND ADDRESS: DAVID NIZNIK
3911 WHITEHEAD
BOISE ID 83703

DIANE PECK-NIZNIK
3911 WHITEHEAD
BOISE ID 83703

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.030 CFS
16.50 AFY

PRIORITY DATE: ~~06/01/1921~~ 07/02/1921

POINT OF
DIVERSION: T04N R02E S29 SWNE Within ADA County

Source is low temperature geothermal water.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE QUANTITY

HEATING

01/01 12/31

0.030 CFS

DOMESTIC

01/01 12/31

16.50 AFY
0.030 CFS

Heating use is for 4 homes.

Domestic use is for internal use in 4 homes and does not include lawn, garden, landscape, or other types of irrigation.

If this right is changed in any way via the IDWR administrative transfer of water right process, the transfer will include a condition that the low temperature geothermal water will be used for its heat value first before any other use.

PLACE OF USE: HEATING in ADA County

T04N R02E S29 SWNE

DOMESTIC in ADA County

T04N R02E S29 SWNE

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

The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.

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 water right is subject to the terms of a private Agreement dated August 16, 2010 recorded at the Ada County Recorder's Office on Nov. 2, 2010 as Instrument No.

110103331.

SF5 - Subcase No. 63-5195

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Place of use is also known as parcel nos. S0629131450, S0629131400, S0629131410 and S0629131434.

~~WATER IS 120 DEGREE F GEOTHERMAL WATER~~

Water temperature is measured at 120 degrees F.

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.

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.

NBS

VLW
DLH
JPN

C-22

CERTIFICATE OF MAILING

I certify that on November 9, 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

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~~

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

DAVID NIZNIK
DIANE PECK-NIZNIK
3911 WHITEHEAD
BOISE, ID 83703



Signature of person or attorney mailing the form