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DEPARTMENT OF
WATER RESOURCES

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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 Nos. 63-29710, 63-29713,
	)	63-29715, and 63-29716
	)	
	)	STIPULATION
Case No. 39576	)	
	)	
	)	
_____	)	

Claimant United States of America (including its agencies independently and collectively) and Objectors/Respondents the State of Idaho, the Terteling Company, the Boise Warm Springs Water District, and the City of Boise (collectively, the "Parties"), by and through their undersigned counsel, hereby stipulate and agree as follows:

1. The United States filed SRBA claim nos. 63-29710, 63-29713, 63-29715, and 63-29716, asserting federal reserved water rights for geothermal heating purposes at the rectangular parcel known as the Fort Boise Reservation.

2. The State of Idaho, Terteling Company, Boise Warm Springs Water District, and City of Boise objected to and/or responded to claim nos. 63-29710, 63-29713, 63-29715, and 63-29716.

3. The Parties (including the United States and its agencies independently and collectively) have entered into an agreement intended to resolve all claims and rights by, and on behalf of, the United States (and its agencies independently and collectively) to its rights and/or use of the low temperature geothermal resource under state and federal law within the boundaries of SRBA Basin 63, including but not limited to claim nos. 63-29710, 63-29713, 63-29715, and 63-29716.

4. The Parties (including the United States and its agencies independently and collectively) agree that this agreement has been reached in the process of good faith negotiations for the purpose of resolving legal disputes, including pending litigation, without any determination on the merits. The Parties agree that nothing herein or resulting herefrom shall constitute an admission against interest or be used in any proceeding as legal support or precedent, except as to effectuate this specific agreement. Each party stands by its claims, objections, and/or responses and intends merely to avoid litigation and to settle its peace.

5. The Parties agree to bear their own costs and fees, including attorney fees.

IN CONSIDERATION OF THE PROMISES STATED HEREIN, THE PARTIES AGREE AS FOLLOWS:

A. STAY OF PROCEEDINGS IN SRBA SUBCASE NOS. 63-29713, 63-29715, AND 63-29716

The Parties shall jointly move the SRBA District Court for an order staying the proceedings in subcase nos. 63-29173, 63-29715, and 63-29716, pending approval of the application for transfer of water right no. 63-29710 consistent with that set forth in Stipulation

Exhibit C and entry of a partial decree for late claim no. 63-09890 consistent with that set forth in Stipulation Exhibit D. A copy of the joint motion is attached hereto at Exhibit A. The Parties acknowledge that complete resolution of the matters in the above-entitled subcases is contingent upon approval of the application for transfer of water right no. 63-29710 consistent with that set forth in Stipulation Exhibit C and entry of a partial decree for late claim no. 63-09890 consistent with that set forth in Stipulation Exhibit D.

B. FILING OF SF-5 IN SRBA SUBCASE NO. 63-29710

The Parties shall file an SF-5 in subcase no. 63-29710 consistent with that set forth in Stipulation Exhibit B

C. FILING FOR TRANSFER OF WATER RIGHT NO. 63-29710

The United States shall file an Application for Transfer of Water Right with the Idaho Department of Water Resources (IDWR) consistent with that set forth in Stipulation Exhibit C. The undersigned objectors/respondents agree not to object in any administrative and/or judicial proceeding concerning the United States' transfer of use of water right no. 63-29710 that is consistent with that set forth in Stipulation Exhibit C.

D. FILING OF LATE NOTICE OF CLAIM FOR WATER RIGHT PERMIT NO. 63-09890

The United States shall request IDWR to license water right permit no. 63-09890 consistent with that set forth in Stipulation Exhibit D. Concurrent therewith, the United States shall move the SRBA District Court for leave to file a late notice of claim for water right permit no. 63-09890 consistent with that set forth in Stipulation Exhibit D. The undersigned objectors/respondents agree not to object to any license, notice of claim, director's report, special master's recommendation, or decree for water right no. 63-09890 that is consistent with that set forth in Stipulation Exhibit D.

UPON APPROVAL OF THE APPLICATION FOR TRANSFER OF WATER RIGHT NO. 63-29710 CONSISTENT WITH THAT SET FORTH IN STIPULATION EXHIBIT C AND UPON ENTRY OF A PARTIAL DECREE FOR LATE CLAIM NO. 63-09890 CONSISTENT WITH THAT SET FORTH IN STIPULATION EXHIBIT D, THE PARTIES AGREE TO PROCEED AS FOLLOWS:

E. WITHDRAWAL AND DISALLOWAL OF CLAIM NOS. 63-29713 AND 63-29715

The United States shall move the SRBA District Court to withdraw claim nos. 63-29713 and 63-29715 with prejudice. The Parties agree that claim nos. 63-29713 and 63-29715 should thereafter be recommended by the special master and decreed by the district court as "Disallowed".

F. FILING OF SF-5 IN SRBA SUBCASE NO. 63-29716

The Parties shall file an SF-5 in subcase no. 63-29716 as set forth in Exhibit E.

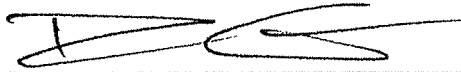
G. FILING OF NOTICE OF INTENT TO RELINQUISH PERMIT. 63-10339

The United States shall file a notice of intent to relinquish permit no. 63-10399 consistent with that set forth in Stipulation Exhibit F.

H. MUTUAL UNDERSTANDING

This Stipulation shall remain effective only if the water rights proceed to decrees from the SRBA Court as such water rights are described in the attached exhibits. If for any reason the Court does not issue decrees for any of the water rights as described in the attached exhibits, this Stipulation is voidable in whole or in part by any of the Parties, and the United States shall proceed with a determination of any affected water rights under applicable law. The exercise of such discretion must be served upon the other parties in writing within 60 days of the issuance of such offending action or decision.

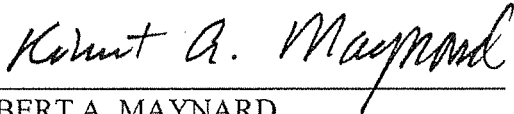
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DAVID I. STANISH
Deputy Attorney General
On behalf of the State of Idaho

10/3/08

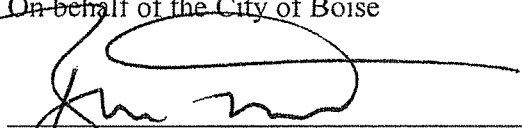
Date



ROBERT A. MAYNARD
Perkins Coie, LLP
On behalf of the City of Boise

10/3/08

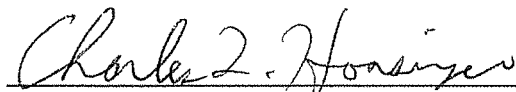
Date



BRUCE M. SMITH
Moore, Smith, Buxton & Turcke, Chtd.
On behalf of Boise Warm Springs Water District

10/14/08

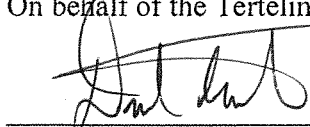
Date



CHARLES L. HONSINGER
Ringert Clark, Chtd.
On behalf of the Terteling Co., Inc.

10/09/08

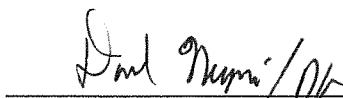
Date



DAVID GEHLERT
United States Department of Justice
On behalf of the United States Department of Veterans Affairs (63-29713)

9/28/11

Date



DAVID L. NEGRI
United States Department of Justice
On behalf of the United States Geological Survey (63-29716) & the United States General Services Administration (63-29715)

9/28/11

Date



JAMES DUBOIS
United States Department of Justice
On behalf of the United States Army Reserve (63-29710)

9/28/11

Date

CERTIFICATE OF SERVICE

I certify that on the 29th day of SEPT, 2008, I caused to be served the original and/or copy of this STIPULATION on each of the following persons by the following methods:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
PO BOX 2707
TWIN FALLS, ID 83303-2707

- ☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Federal Express
☐ Facsimile: (208) 736-2121
☐ Statehouse Mail

2. Copies to:

BOISE WARM SPRINGS WATER DIST
Represented by:
BRUCE M. SMITH
950 W BANNOCK STE 520
BOISE, ID 83702
Phone: 208-331-1800

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Email:
☐ Statehouse Mail

THE TERTELING CO INC
Represented by:
CHARLES L. HONSINGER
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____
☐ Statehouse Mail

EDWARDS FAMILY LLC
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____
☐ Statehouse Mail

CITY OF BOISE
Represented by:
ROBERT A. MAYNARD
PERKINS COIE LLP
251 E FRONT ST, STE 400
BOISE, ID 83702-7310
Phone: 208-343-3434

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____
☐ Statehouse Mail

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

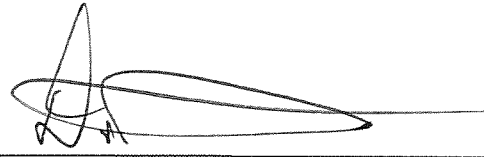
- ☒ U.S. Mail, postage prepaid
- ☒ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☐ Statehouse Mail

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☐ Statehouse Mail

IDWR DOCUMENT DEPOSITORY
PO BOX 83720
BOISE, ID 83720-0098

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☐ Statehouse Mail

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a horizontal line extending to the right.