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MAR 19 2009

DEPARTMENT OF
WATER RESOURCES

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

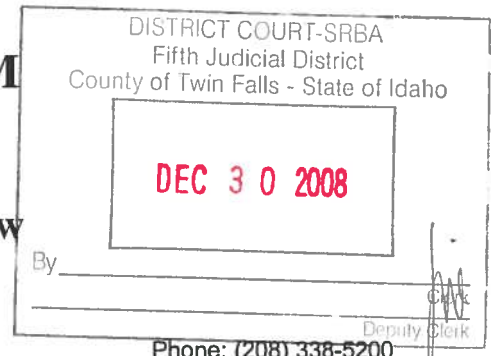
CIVIL CASE NUMBER: 39576

Indent. Number 63-33148

Date Received 3-19-2009 SP7

Receipt Number C088259 125-

**NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW**



Please type or print clearly

1. Name of Claimant(s) The Terteling Company, Inc. Phone: (208) 338-5200
Mailing Address 3858 Garden Center Way, Boise, ID Zip 83703
2. Date of Priority only (1) per claim) May 1, 1891
3. Source of water supply (a) Springs
which is tributary to (b) Stewart Gulch
4. a. Location of existing point of diversion is: Township 04N Range 02E Section 14,
1/4 of SW 1/4 SW 1/4, Govt. Lot, _____ B.M., County of Ada
Additional points of diversion if any: T04N R02E Section 14 SESW
b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4 of _____
1/4, Govt. Lot _____ B.M., County of _____
5. Description of existing diversion works. Diversions from springs into very small ponds and spring boxes
6. Water is claimed for the following purposes:
(both dates are inclusive) (cfs) (acre feet)
For Stockwater purposes from 1/01 to 12/31 amount 0.04 cfs or _____
For Aesthetic purposes from 1/01 to 12/31 amount .04 cfs or _____
For Wildlife purposes from 1/01 to 12/31 amount .04 cfs or _____

Last Name The Terteling Company, Inc. Ident. Number 63-33148

SCANNED

MAR 22 2009

- [illegible]

11. In which county (ies) are lands listed above as place of use located? Ada

12. Do you own the property listed above as place of use? Yes X No _____

13. Other water rights used:

14. Remarks:_____

- If applicable provide IDWR Water Right Number 63- 33148
 Court _____ Case Number _____ Decree Date _____
 Plaintiff vs Defendant _____

MAR 7 3 2009

16. Signature (s)

(a) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing documents are true and correct.

Signature or Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____

_____ Title
of The Terteling Company, Inc. _____, that I have signed the foregoing

Organization
document in the space below as _____ of The Terteling Company, Inc.

_____ Title
organization
and that the statements contained in the foregoing document are true and correct.

Signed of Authorized Agent _____

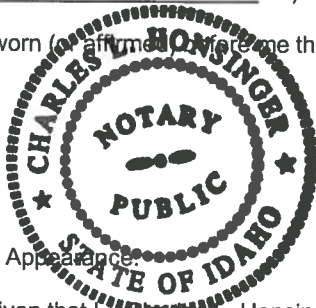
Title and Organization PRESIDENT TTEI Date 22 DEC 08

State of Idaho/or _____)

County of Ada) SS.

Subscribed and sworn to before me this 22nd day of December 2008

SEAL



Notary Public Charles L. Honsinger

Residing at Boise, Idaho

My Commission Expires 7/30/2010

17. Notice of Appearance:

Notice is hereby given that I, Charles L. Honsinger, will be acting as attorney at law on behalf of the claimant signing above, and all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Charles L. Honsinger

Address Ringert Law, Chartered, P.O. Box 2773, Boise, ID 83701

Date December 22, 2008

Last Name The Terteling Company, Inc. Ident. Number 63-33148

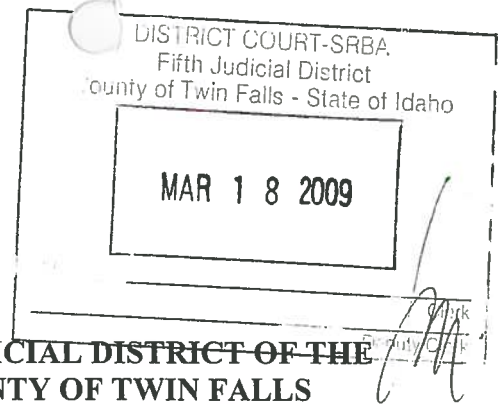
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MAR 23 2009

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MAR 19 2009

DEPARTMENT OF
WATER RESOURCES



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: 63-33148

Case No. 39576

) ORDER GRANTING MOTION TO FILE
) LATE NOTICE OF CLAIM
)
)
)
)

On December 30, 2008, The Terteling Company, Inc., by and through counsel, Charles L. Honsinger, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on March 17, 2009. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for the above-captioned water right is **granted**.

The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of *SRBA Administrative Order 1* 4d(2)(h).

IT IS SO ORDERED.

Dated March 18, 2009.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM was mailed on March 18, 2009, with sufficient first-class postage to the following:

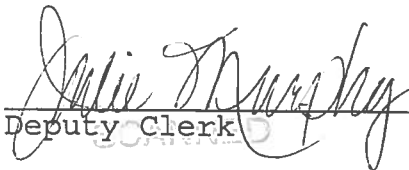
THE TERTELING CO INC
Represented by:
CHARLES L. HONSINGER
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

ORDER

Page 9 3/18/09

FILE COPY FOR 02236


Deputy Clerk

MAR 23 2009

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DEC 30 2008
DEPARTMENT OF
WATER RESOURCES

Hearing: 3-17-08

**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 63-33148
	)	
	)	
Case 38576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE LATE NOTICE OF CLAIM
_____	)	

*filed for
d.e. clone
changes made
12-31-08*

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).

COPY

SCANNED
DEC 30 2008

I am an attorney representing The Terteling Company, Inc.

My address is: RINGERT CLARK, CHARTERED, P.O. Box 2773, Boise, Idaho 83701

My phone number is: 208/342-4591

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

The Terteling Company, Inc. did not file a Notice of Claim for the use of this water in the SRBA because:

The Terteling Company, Inc., has filed many different claims to water rights in Basins 63 and 65, and only recently discovered that this domestic water right was not claimed in the SRBA after consultation with their expert and attorney, and a subsequent investigation by their expert.

I am providing legal and factual documentation for this claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

A fully completed Notice of Claim (available from IDWR).

A claim filing fee for a water right. IDWR may charge this fee pursuant to I. C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$25.00.

The Affidavit of Charles L. Honsinger in Support of Motion to

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

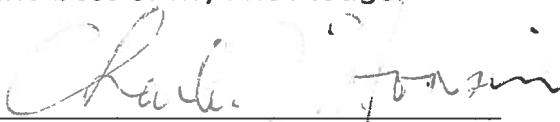
This motion will be heard on March 17, 2008, at 1:30 p.m. at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

VERIFICATION (Must be completed)

State of Idaho)
)
County of Ada)

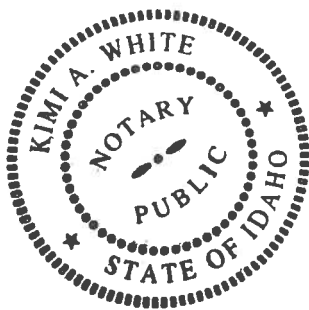
Charles L. Honsinger, being first duly sworn, upon oath, deposes and says:

That I am an attorney for the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I. C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.



Attorney signing in representative capacity

Subscribed and sworn to before me on December 29, 2008
(Insert Date)




Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: 04/01/10

CERTIFICATE OF MAILING

I certify that on December 29, 2008, 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:

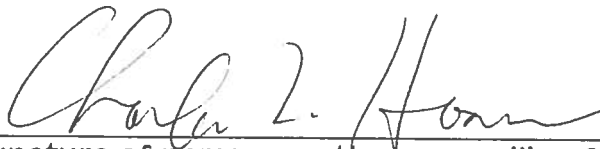
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of person or attorney mailing form

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576
Indent. Number 63-33148
Date Received _____
Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant(s) The Terteling Company, Inc. Phone: (208) 338-5200
Mailing Address 3858 Garden Center Way, Boise, ID Zip 83703
2. Date of Priority only (1) per claim) May 1, 1891
3. Source of water supply (a) Springs
which is tributary to (b) Stewart Gulch
4. a. Location of existing point of diversion is: Township 04N Range 02E Section 14,
1/4 of SW 1/4 SW 1/4, Govt. Lot, _____ B.M., County of Ada
Additional points of diversion if any: T04N R02E Section 14 SESW
b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
5. Description of existing diversion works. Diversions from springs into very small ponds and spring boxes
6. Water is claimed for the following purposes:

	(both dates are inclusive)	(cfs)	(acre feet)
For <u>Stockwater</u>	purposes from <u>1/01</u> to <u>12/31</u>	amount <u>0.04 cfs</u>	or _____
For <u>Aesthetic</u>	purposes from <u>1/01</u> to <u>12/31</u>	amount <u>.04 cfs</u>	or _____
For <u>Wildlife</u>	purposes from <u>1/01</u> to <u>12/31</u>	amount <u>.04 cfs</u>	or _____

Last Name The Terteling Company, Inc. Ident. Number 63- 33148

SCANNED

Page 2 of 2000

- [illegible]

11. In which county (ies) are lands listed above as place of use located? Ada

12. Do you own the property listed above as place of use? Yes X No _____

13. Other water rights used:

14. Remarks: _____

- If applicable provide IDWR Water Right Number 63- 33148
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

154-30 2008

16. Signature (s)

(a) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing documents are true and correct.

Signature or Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____

_____ Title
of The Terteling Company, Inc. _____, that I have signed the foregoing
Organization
document in the space below as _____ of The Terteling Company, Inc.
_____ Title organization

and that the statements contained in the foregoing document are true and correct.

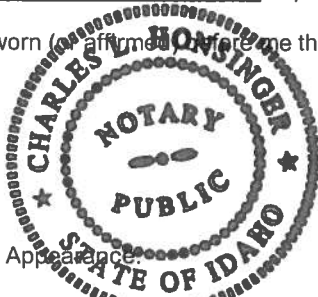
Signed of Authorized Agent *Joe J Terteling*

Title and Organization PRESIDENT TTCL Date 22 DEC 08

State of Idaho/or _____)
County of Ada) SS.

Subscribed and sworn (affirmed) before me this 22nd day of December 2008

SEAL



Notary Public *Charles L. Honsinger*

Residing at Boise, Idaho

My Commission Expires 7/30/2010

17. Notice of Appearance:

Notice is hereby given that I, Charles L. Honsinger, will be acting as attorney at law on behalf of the claimant signing above, and all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature *Charles L. Honsinger*

Address Ringert Law, Chartered, P.O. Box 2773, Boise, ID 83701

Date December 22, 2008

Last Name The Terteling Company, Inc. Ident. Number 63-33148

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DEPARTMENT OF
WATER RESOURCES

CHARLES L. HONSINGER (ISB #5240)
RINGERT LAW CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

Attorneys for Claimants The Terteling Company, Inc.

IN RE SRBA) SUBCASE NO. 63-31058; LATE CLAIM NO. 63-33148_
)
) AFFIDAVIT OF ED SQUIRES IN SUPPORT OF MOTION
) TO FILE AMENDED CLAIM TO WATER RIGHT NO.
) 63-31058 AND A LATE CLAIM TO A WATER RIGHT
Case No. 38756) DIVERTED FROM SPRINGS
)
_____)

STATE OF IDAHO)
) ss
COUNTY OF ADA)

ED SQUIRES, being first duly sworn upon his oath, deposes and says that:

1. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
2. The purpose of this affidavit is to provide information regarding claim to water right no. 63-31058 claimed in the Snake River Basin Adjudication by The Terteling Company, Inc. in order to provide a basis for amendment of the same.
3. I am a registered professional geologist licensed by the State of Idaho. I am also a Certified Water Right Examiner trained and experienced in the area of aerial photo analysis and interpretation. My specific expertise and qualification are set forth in my curriculum vitae attached hereto as Exhibit "A".

AFFIDAVIT OF ED SQUIRES IN SUPPORT OF MOTION TO FILE LATE CLAIM TO
WATER RIGHT NO. 63-31058 AND A LATE CLAIM - Page 1

COPY

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DEC 30 2008

4. I was retained by The Terteling Company, Inc. in the spring of 2008 to investigate and analyze the diversion, distribution and delivery of surface water from Stewart Gulch Creek on the upper Terteling Ranch near 7000 Bogus Basin Road in Ada County, Idaho to determine whether the original claim filed by The Terteling Company to this water right was accurate and complete. My conclusion was that the original claim was neither accurate nor complete.

5. I have examined the Idaho Department of Water Resources' claim file for water right no. 63-31058. Copies of relevant documents from that claim file are attached hereto as Exhibit "B". The documents attached as Exhibit "B" establish that the apparent primary reason for this water right's recommended disallowal is that the diversion and distribution system was not well described to the IDWR water right investigator, despite requests for the same. I believe that if the information I have obtained regarding water uses and the water distribution and diversion systems had been provided to the investigator, the water right would have been recommended. The diversions claimed pursuant to the amended claim and water uses in excess of the originally claimed amounts clearly exist. This affidavit provides a general description of such information. I am available to go into more detail with IDWR's investigator and/or make a field trip to the location of the water right at any time upon reasonable notice and appointment.

6. With respect to water diverted pursuant to water right no. 63-31058 from Stewart Gulch Creek, I was able to locate three separate diversions. Using computer software, I have created a map showing such diversions that is attached hereto as Exhibit "C". Additionally,

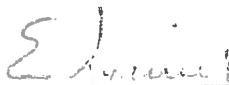
with respect to water that is diverted pursuant to water right no. 63-31058 from springs, I was able to locate the diversion of the springs into adjacent ponds - such springs are also shown on Exhibit "C". All of these diversions can be readily observed by a water rights investigator who is shown the same by a person with knowledge of their locations.

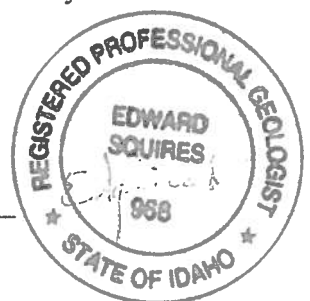
7. In addition to the diversions from Stewart Gulch Creek and springs, I was able to locate and map an elaborate system of ditches, laterals, and pipes that distributes the water to various irrigated areas and ponds. This system is shown and labeled on Exhibit "C" attached hereto. Acreage irrigated by the system is also shown and labeled on Exhibit "C".

8. Through my analysis and interpretation of various aerial photos through time showing the places of use claimed as irrigated pursuant to water right no. 63-31058, I have determined that such areas have been developed and irrigated. I believe these places of use have been accurately claimed in the amended claim. From the available aerial photography, I believe that there is evidence of beneficial use of the water right as early as 1938.

9. As a result of my investigation of surface water sources, diversion and distribution systems on the upper Terteling Ranch, I have found three unclaimed developed spring sources used by the claimant for stockwater, aesthetic and wildlife purposes. Such spring sources are shown on the map attached hereto as Exhibit "C". It is my understanding that a Motion to File Late Claim for such spring sources has been filed concurrently with this affidavit.

Further your affiant sayeth naught.


Ed Squires



AFFIDAVIT OF ED SQUIRES IN SUPPORT OF MOTION TO FILE LATE CLAIM TO
WATER RIGHT NO. 63-31058 AND A LATE CLAIM - Page 3

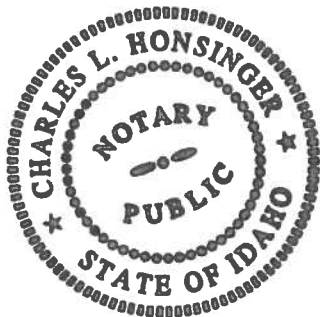
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3 0 2008

STATE OF IDAHO)
)ss.
County of Ada)

On this 19 day of December, 2008, before me, the undersigned, a notary public in and for said state, personally appeared ED SQUIRES, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Charles L. Honsinger
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 7/30/2010

AFFIDAVIT OF ED SQUIRES IN SUPPORT OF MOTION TO FILE LATE CLAIM TO
WATER RIGHT NO. 63-31058 AND A LATE CLAIM - Page 4

SCANNED

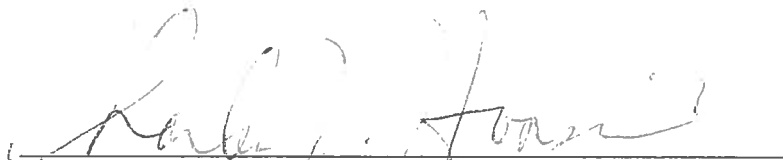
Jul 31 2008

CERTIFICATE OF MAILING

I certify that on December 29, 2008, 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:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449



Signature of person mailing form

Exhibit A

Edward Squires, R.P.G.

EDUCATION

M.S. Interdisciplinary Hydrogeology, 1992, Boise State University, Boise, Idaho.
Advisors: Dr. S.H. Wood (BSU) and Dr. J.L. Osiensky (U of I) advisors.

B.S. Geology, groundwater emphasis, cum laude, 1990, Boise State University, Boise, Idaho.
Advisor: Dr. C. M. White.

Thesis: Hydrogeologic Framework of the Boise Aquifer System, Ada County, Idaho.

REGISTRATION

Registered Professional Geologist, since 1999, Certificate No. 968
Professional Well Log Analyst, since 1995
Certified Water Right Examiner, Certification No. 06-125

OVERVIEW

Ed Squires is the President and Managing Hydrogeologist for Hydro Logic, Inc. of Boise, Idaho. Before starting his own consulting firm in 1999, he served for 6 years as Manager of the Geosciences Department and Senior Project Hydrogeologist for United Water Idaho, Inc. In that capacity, Mr. Squires has consulted on a variety of water resource projects to the United Water Resources group of companies around the United States. He has been part of the adjunct graduate faculty at Boise State University's Department of Geosciences since 1995, regularly teaching a curriculum course in Field Hydrogeology and serving as a guest lecturer for other water-related coursework. Prior to his tenure at United Water Idaho, Mr. Squires worked as a hydrogeologist for S.H. Wood and Associates and has over eighteen years of hands-on groundwater experience.

Mr. Squires' professional career and current practice emphasizes all aspects of responsible groundwater development, water rights, and resource protection. He has conducted extensive research and published several reports on the groundwater and subsurface hydrogeology of the Boise River Valley since publication of his Masters Thesis, entitled "Hydrogeologic Framework of the Boise Aquifer System, Ada County, Idaho". Mr. Squires served three years on the Technical Advisory Committee of the Treasure Valley Hydrologic Project and has been a member of the Southeast Boise Groundwater Management Area Committee, formed as a result of his research in Southeast Boise, since 1994. He recently served on the Technical Advisory Committee for the Hydrogeologic Framework and Computer Modeling Project for the Boise Front Geothermal Groundwater Management Area and has been appointed by the Director to the Negotiated Rulemaking Committee to draft new administrative rules for well drilling in the State of Idaho.

Mr. Squires has designed and supervised the construction of over 300 large bore, high capacity water supply wells averaging 500 feet deep in sedimentary and volcanic aquifers. He has designed, supervised the construction, developed, and tested more than 60 deep (500-to-1000 feet) exploratory test/observation wells in addition to multiple geothermal and irrigation well development projects. In addition to new well installations, Mr. Squires has run down hole camera surveys and borehole geophysical logs in hundreds of wells throughout the Western States and has been in charge of rehabilitative maintenance/reconstruction of over 100 older wells.

Mr. Squires is a registered Professional Geologist (No. 968) and a Professional Well Log Analyst. He is a member of the National Groundwater Association, the Association of Ground Water Scientists and Engineers, and is a Certified Water Rights Examiner in the State of Idaho (05-125).

SCANNED

DEC 30 2008

- 6) Six-well, aquifer testing of the Crane Creek area geothermal wells using the Simplot Ranch, Crane Creek GC, and UWID wells as pumping wells. Settled UWID/Simplot water rights dispute – (194-1995).
- 7) Specific capacity testing of the Flora Nursery and Edwards Nursery geothermal wells 2000-2002.
- 8) Conducted and interpreted down hole camera surveys of the BWSWD, Flora, Crane Creek Country Club, Terteling Ranch wells.
- 9) Project manager for design, drilling, completion, and testing of the Peaceful Cove Nursery and Tom Terteling residence deep geothermal supply wells in Stewart Gulch – 1994 & 1995).
- 10) Project manager for the rehabilitation of the Terteling Ranch Pool, Motorcycle Club, and Windsock geothermal wells – 1990's.
- 11) Evaluation of historical weir flow data and geothermal water use at Flora Nursery – 1921- 2002.
- 12) Project manager for reconstruction, and sealing of the Flora Nursery Silkey geothermal well.2001.
- 13) Co-leader of the Treasure Valley Hydrologic Project Foothills Field Trip to view exposed geothermal aquifer rocks along the Boise Front 1998.
- 14) Project manager Stewart Gulch seismic profiling project to site, drill, and complete a new cold-water irrigation well above the geothermal aquifer – 1996
- 15) Conducted geophysical surveys for the J.R. Simplot Co.'s Aquaculture Project in Caldwell, ID.
- 16) Expert witness for Flora Nursery during protested geothermal Transfer application 2001-2002.
- 17) Expert witness for The Terteling Company during protested Petition by the City of Boise to increase geothermal water withdraws from the Boise Geothermal Aquifer 2002.
- 18) Hydrogeologic Framework Refinement and Simulation of Hydraulic Head and Temperature in the Boise Geothermal Aquifer -Technical Advisory Committee member 2002.
- 19) Co-author of the Boise Front Geothermal Aquifer Monitoring Plan June 2002.
- 20) Project manager for the geothermal exploration drilling and seismic reflection surveys project at Tamarack Resort 2005.

Groundwater Development Feasibility Studies

- 1) Design, construction oversight, development, water quality testing , and monitoring of over 50 deep (500-1000 feet) exploratory test-well and piezometer nest installations for municipal and industrial water providers in Southwest Idaho..
- 2) Groundwater Feasibility Study For Idaho Power Co.'s Pahsimeroi Fish Hatchery, Lemhi, County, Idaho.
- 3) Reconnaissance Level Groundwater Feasibility Study for the Idaho Power Company's Oxbow Fish Hatchery atv the Confluence of Pine Creek With the Snake River in the Hells Canyon Reach, Baker County, Oregon.
- 4) Hydrogeologic Evaluation of Groundwater Quality and Yield Beneath the Idaho Power Company's Pahsimeroi Fish Hatchery – Upper Facility.
- 5) Analysis of the 2001 Aquifer Testing for the Municipal Water Supply of the Proposed WestRock Resort, Donnelly, Valley County, Idaho.
- 6) Groundwater Conditions and Hydraulic Testing of the Boise Fan-Aquifer of Southeast Boise River Valley, Ada County, Idaho.
- 1) Evaluation of the Hydrogeologic Framework and Groundwater Production Potential of the Kings River Valley, Nevada.

Resource Protection

- 1) Investigation, design and oversight of the decommissioning and proper abandonment of 35 aging and unsealed large-bore production well using perforate-and-pressure grouting techniques.
- 2) Design and oversight of the pressure grout sealing and rehabilitation of four high-yield unsealed wells.
- 3) Development and implementation of a baseline (pre-development) surface water quality monitoring plan for the proposed Tamarack Resort, Donnelly, ID.

Causative Factors of Detachment of the Mountain Home #1 Municipal Supply Well Pump With Details of the Recovery Effort: 2002, A report prepared for Ringert Clark Chartered Lawyers.

Evaluation, Abandonment, and Proposed Replacement of the Capitol Water Corporation's #5 (Lubkin) Municipal Supply Well 1999-2002: 2001, A report on the history of repair, the occurrence of volatile organic compounds, and the abandonment of an aging supply well in preparation for replacement of the #5 well with a new facility.

Preliminary Evaluation of the Well Construction, Present Down Hole Conditions, and Sustainable Yield of the Garden City #5 Municipal Well: 2001, A report the Garden City Public Works Department.

Stratigraphic Studies of the Boise (Idaho) Aquifer System Using Borehole Geophysical Logs With Emphasis on Facies Identification of Sand Aquifers: 2000, Report to the Treasure Valley Hydrologic Project, Idaho Department of Water Resources, (co author with Dr. S.H. Wood).

Hydrogeology, Geochemistry, and Well Construction of the Treasure Valley Hydrologic Project Monitoring Well #1, Ada County, Idaho: , 1999, Final report to the Technical Advisory Committee (co-author).

Supporting Data for the Groundwater Conditions and Aquifer Testing of the Tenmile Ridge Area of South Boise, Ada County, Idaho: 1998.

Implications of Well-Construction to Aquifer Water-Quality: Some Observations: (principal author), 1997, Southwest Idaho Subsection – Pacific Northwest Section of the American Water Works Association; in Southwest Idaho As An Example of Ground Water Development in the Northwest Intermountain Region, Speakers Expanded Abstracts

City of Meridian #15 Production Well; Discovery of a New, Good-Quality Aquifer: 1994, Professional report to the City of Meridian, Idaho.

Groundwater Conditions and Hydraulic Testing of the Boise-Fan Aquifer of Southeast Boise River Valley, Ada County, Idaho: 1993, Report to Boise Water Corporation. (principal author).

City of Meridian #14 Production Well: 1993, A new large-capacity municipal-supply well is completed in response to unprecedented 18% growth. Report to City of Meridian, Idaho.

Hydrogeologic Framework of the Boise Aquifer System, Ada County Idaho: 1992, Project Completion Technical Report, Idaho Water Resources Research Institute, University of Idaho, Moscow, Idaho, 109 pages. (principal author)

An Irrigation Well for the Les Bois Invitational Soccer Tournament Incorporated, 1992, professional report to Boise Water Corporation, 42 pages. (sole author)

Hydrogeologic Investigation for the Proposed State of Idaho, Department of Transportation Blacks Creek Rest Area, Ada County, Idaho: 1992, report to Idaho Department of Transportation, 38 pages. (principal author)

Investigation of Groundwater in the Tenmile Ridge Area of South Boise, Idaho: 1989. Report to Boise Water Corporation. (principal author)

Origin of Granophyres in the Vandfaldalen Macrodiike, East Greenland: 1989, Evidence for Assimilation and Magma Mixing. GSA Abs. with Programs. (co-author)

Crustal Assimilation and Coexisting Silicic and Mafic Magmas in the Vandfaldalen Macrodiike, East Greenland: Continental Magmatism Abstracts (IAVCEI): New Mexico Bureau of Mines and Mineral Resources Bulletin 131. (co-author)

Analysis of Historical and Current Water-level and Production Data from the Boise Geothermal System: 1988, Geological Society of America Abstracts. (co-author)

Preliminary Geology and Hydrogeology of the Mayfield/Orchard Area, Elmore and Ada Counties, Southwest Idaho: 1988, (Best Undergraduate Paper in Physical Sciences), in Program and Abstracts, 30th Annual Meeting of the Idaho Academy of Science. (sole author)

Geologic Study of Groundwater in Deep Wells, Southeast Boise Area: 1987. Report to Boise Water Corporation.

Exhibit B

SCANNED

Mar 30 2008

Field Exam Date

Desktop review/VLW

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT

Disallowed

Prior to Field Exam

- ☒ Copy of Claim, claim has been signed, sealed, and dated by notary?
- ☒ Check fees paid
- ☐ Well logs (if needed)
- ☐ Copy of topo or NAPP
- ☐ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
- ☐ Check POD & POU overlap, see below – include overlapping right for exam
- ☐ Evidence of Priority – if none, talk with claimant

CLAIMANT INFORMATION – verify contact information is complete

Claim No(s) 63-31058

Owner: _____ Phone No. _____

Current Address: _____

- ☒ No change NAME IS THE SAME
- ☐ NEW OWNER _____
- ☐ No change Address
- ☐ NEW ADDRESS _____
- ☐ How long owned property? _____

Accompanied by: _____

PRIORITY DATE

- ☒ No change – Complete evidence submitted or not necessary
- ☐ Incomplete – Claimant should be asked when water was first used and submit proof of date.
- ☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: _____

(If priority date, based on your exam, seems questionable, explain below.)

Source: Spring/Stewart Cr. Tributary to _____

- ☒ No Change – SAME SOURCE
- ☐ Source found is different than claimed: _____

POINT OF DIVERSION

? location unknown

- ☐ No change
- ☐ POD found is different than claimed: _____
- ☐ If different, when did POD change? _____

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DEC 30 2008

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID

Description of diverting works

unknown - no information provided on claim or by claimant

OVERLAP REVIEWOther water rights with the same point of diversion: none

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain:

WATER USESwill delete irr.☐ No change☐ Different UsesUse SW From 1-1 To 12-31 Amount .04 CFS _____ AFA _____

Use _____ From _____ To _____ Amount _____ CFS _____ AFA _____

Use _____ From _____ To _____ Amount _____ CFS _____ AFA _____

TOTAL VOLUME -- Groundwater only☐ Incomplete on claim, the total is, Amount N/A CFS _____ AFA _____☐ Changes found, the new total is, Amount _____ CFS _____ AFA _____☐ More than 1" per Acre? Yes _____ (claimant must complete excess flow sheet)**NON-IRRIGATION USES:**☒ No change☐ Changes Exam found: Domestic # of homes _____ Stock # _____

Types _____ Additional comments: _____

PLACE OF USE:☒ No Change☐ Changes shown below:

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30 2008

Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Overlap with other water rights: 63-31060

Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain:

Delivery System Narrative: unknown - information requested from client - none recd.

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size

FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

703 - no b/cu found
713 -
 SW is for 15 range cattle.
 Q for SW not a det of his b/cu
 Q for SW not to > 13K gpd.
 aka 6601 N Boous Basin Rd., Boise
 Parcel # 50614334800.

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--- 3 0 2008

(1) Ada Co. tax lot info lists address as 6601
N Bonus Basin Rd. #9064334800.

(2) no irrigation or trace of ir seen in ariids
from 1981-2003.

(3) requested information about POD & delivery system -
response was no help at all. - will delete ir. Claimant
can go thru permitting process

AFTER EXAM THE FILE SHOULD CONTAIN:

- NA (
- ☒ Completed claim checklist
 - ☐ Photographs of POD's and POU
 - ☐ GPS readings
 - ☒ Completed map and or GIS layout showing POD's and POU

DATE EXAM CONDUCTED: _____

FIELD EXAMINER: _____

/vicky

Music, Vicky
Tuesday, November 22, 2005 4:17 PM
Charlie Honsinger (E-mail)
Tom Terteling (E-mail)
subject: PRELIMINARY DRs/NOE FOR 63-31056, 31057, 31058, 31060

Charlie and Tom -

Attached are the above.

These 2 are for Peaceful Cove wells and Andy's house



63-31056 PRELIM
DR.doc



63-31057 PRELIM
DR.doc



63-31056.pdf

These 2 are for the claims off of Bogus Basin Rd. I disallowed 63-31058 due to no evidence of 5 acres of irrigation in aerals and no information about the point of diversion and delivery system, and deleted the irrigation from 63-31060 for the same reasons.



63-31058 PRELIM
DR.doc



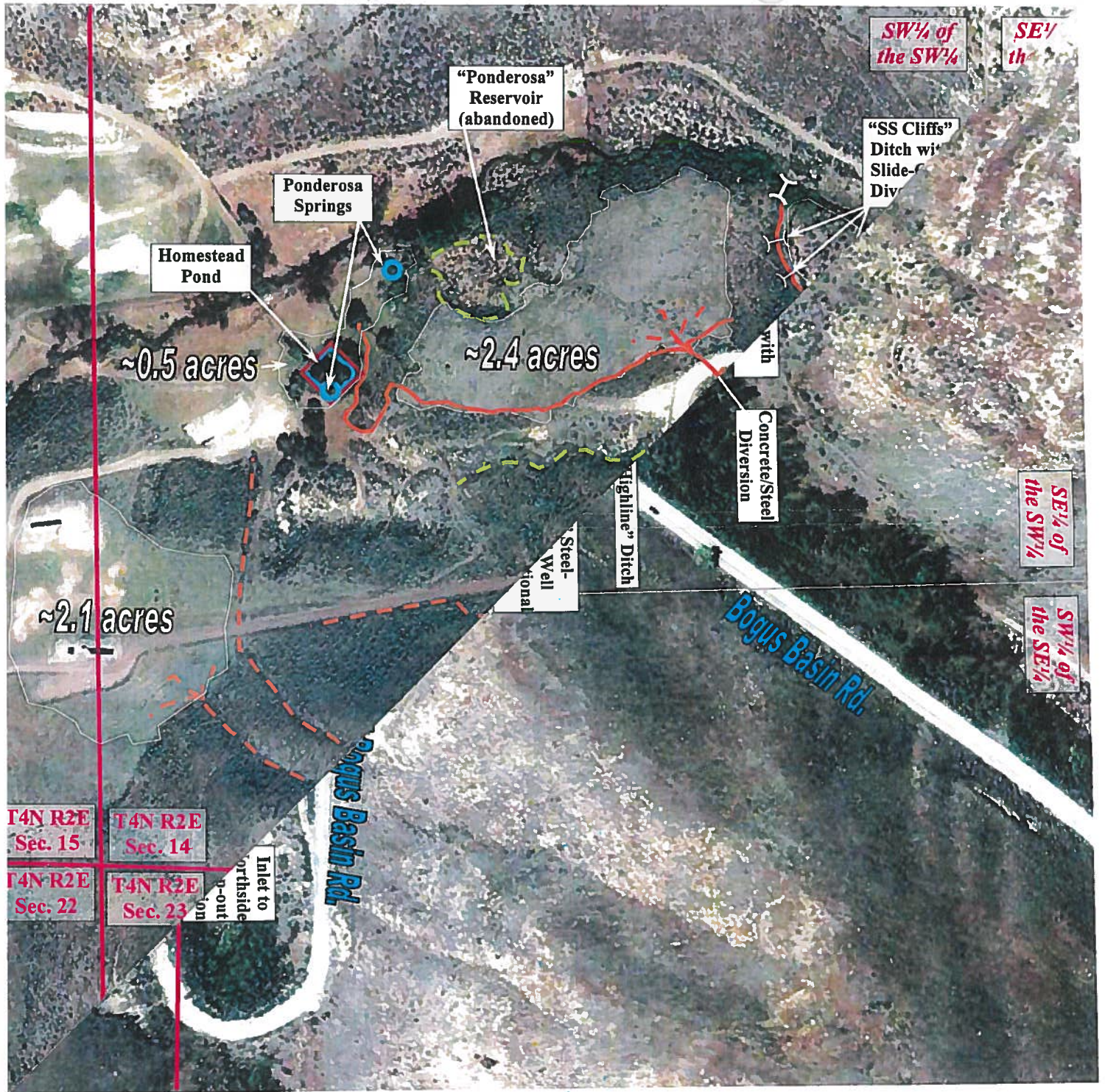
63-31060 PRELIM
DR.doc

Vicky L. Music
Sr. Water Resource Agent
Adjudication Bureau
IDWR/Western Region
2735 Airport Way
Boise, Idaho 83705-5082
(208) 334-2190

Exhibit C

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DEC 30 2008



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DEC 30 2008
DEPARTMENT OF
WATER RESOURCES

CHARLES L. HONSINGER (ISB #5240)
JON GOULD (ISB #6709)
RINGERT LAW CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657
Attorneys for Claimants The Terteling Company, Inc.

	)	SUBCASE NO. 63-33148
	)	
IN RE SRBA	)	AFFIDAVIT OF DOUG HUNT IN SUPPORT OF
	)	MOTION TO FILE LATE CLAIM
Case No. 38756	)	
_____	)	
STATE OF IDAHO	)	
	) ss	
COUNTY OF ADA	)	

DOUG HUNT, being first duly sworn upon his oath, deposes and says that:

1. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
2. I am currently the manager of the Terteling Ranch, owned in part by The Terteling Company, Inc., the claimant to many water rights on the Terteling ranch, and make this affidavit in that capacity. In my capacity as ranch manager, I actively manage the day to day irrigation, livestock ranching, and farming activities on properties owned by The Terteling Company, Inc. I am not personally involved in the process of claiming and managing water rights on the Terteling ranch, although I am involved in the physical use of the water diverted pursuant to those rights.
3. I first began working for The Terteling Company, Inc. when I was hired as a ranch hand/construction worker in 1975. I worked for The Terteling Company, Inc. in that capacity

COPY

SCANNED
SCANNED
DEC 30 2008
10:00 AM

until approximately 1981. I then worked for The Terteling Company, Inc. on and off until I was hired as the ranch manager in 2000.

4. During my time with The Terteling Company, Inc., I ran cattle on the upper Terteling ranch, and have observed that cattle and wildlife consistently used water from springs claimed pursuant to the late claim recently filed by The Terteling Company, Inc.

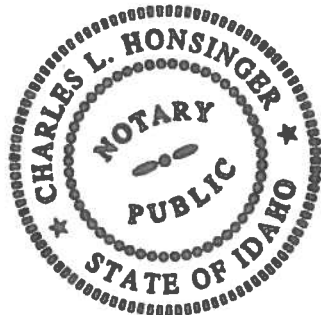
Further your affiant sayeth naught.

Douglas J. Hunt
Doug Hunt

STATE OF IDAHO)
)ss.
County of Ada)

On this 26th day of November, 2008, before me, the undersigned, a notary public in and for said state, personally appeared DOUG HUNT, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Charles L. Honsinger
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 7/30/2010

CERTIFICATE OF MAILING

I certify that on December 24, 2008, 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:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449



Signature of person mailing form

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DEC 30 2008

DEPARTMENT OF
WATER RESOURCES

CHARLES L. HONSINGER (ISB #5240)
JON GOULD (ISB #6709)
RINGERT LAW CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657
Attorneys for Claimants The Terteling Company, Inc.

IN RE SRBA	)	SUBCASE NO. 63-33148
	)	
CASE 38576	)	AFFIDAVIT OF ANDREW J. TERTELING IN SUPPORT
	)	OF MOTION TO FILE LATE CLAIM
	)	
_____	)	
STATE OF IDAHO	)	
	) ss	
COUNTY OF ADA	)	

ANDREW J. TERTELING, being first duly sworn upon his oath, deposes and says that:

1. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
2. I am the Vice-President of The Terteling Company, Inc., the claimant to various water rights in the SRBA, and make this affidavit in that capacity. In my capacity as Vice-President, I am generally aware of all aspects of management of properties owned by The Terteling Company, Inc., including irrigation and water right aspects.
3. I first began involvement in the water rights claimed by The Terteling Company, Inc. when I was hired as the Vice-President approximately three years ago.

AFFIDAVIT OF ANDREW J. TERTELING IN SUPPORT OF MOTION TO FILE LATE
CLAIM - Page 1

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DEC 30 2008

4. The Terteling Company, Inc. and T-7, LLC (a related entity) have claimed nearly 30 water rights from various sources, including many groundwater rights. As a result of the importance of ground water to The Terteling Company, Inc.'s wholesale nursery business and its irrigation interests, I have focused my attention upon ground water rights claimed in the SRBA in an attempt to learn as much as possible about them.

5. As the SRBA has progressed I have been able to spend more time learning about all of the water rights claimed by The Terteling Company, Inc., including various spring water rights on the Terteling ranch.

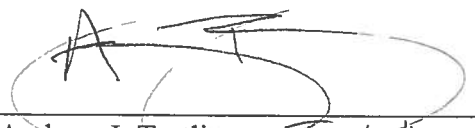
6. Earlier this year, The Terteling Company Inc.'s expert water rights investigator Ed Squires informed me that he had done a preliminary investigation and that The Terteling Company, Inc. had failed to claim springs used for stockwater, aesthetic, and wildlife purposes on the upper Terteling ranch - an area where I have spent very little time.

7. I requested that Mr. Squires do a full investigation of the unclaimed water rights on the upper Terteling ranch with an eye towards making SRBA claims for the same.

8. As a result of Mr. Squires' investigation, we are filing a late claim to developed springs located on the upper Terteling Ranch that have not been previously claimed, and of which I was previously unaware.

9. A copy of the late claim to water right proposed to be filed by The Terteling Company, Inc. is attached hereto

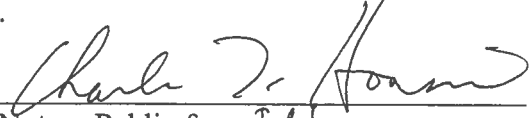
Further your affiant sayeth naught.

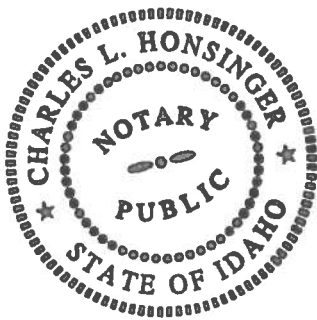

Andrew J. Terteling Terteling

STATE OF IDAHO)
)ss.
County of Ada)

On this 26th day of November, 2008, before me, the undersigned, a notary public in and for said state, personally appeared ANDREW J. TERTELING, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.


Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 7/20/2010

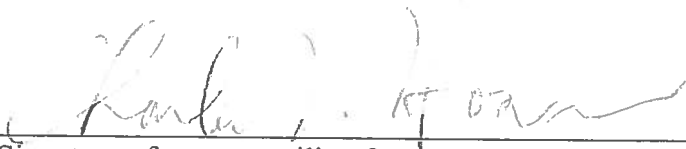


CERTIFICATE OF MAILING

I certify that on December 29, 2008, 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:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449



Signature of person mailing form

CHARLES L. HONSINGER (ISB #5240)
RINGERT LAW CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

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DEC 30 2008
DEPARTMENT OF
WATER RESOURCES

Attorneys for Claimants The Terteling Company, Inc.

	)	
	)	SUBCASE NO. 63-31058; LATE CLAIM NO. 63-33148
	)	
IN RE SRBA	)	AFFIDAVIT OF CHARLES L. HONSINGER IN SUPPORT
	)	OF MOTION TO FILE AMENDED CLAIM TO WATER
	)	RIGHT NO. 63-31058 AND A LATE CLAIM TO A WATER
Case No. 38756	)	RIGHT DIVERTED FROM SPRINGS
	)	
_____	)	
STATE OF IDAHO	)	
	) ss	
COUNTY OF ADA	)	

CHARLES L. HONSINGER, being first duly sworn upon his oath, deposes and says that:

1. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
2. I am the attorney of record in the Snake River Basin Adjudication for The Terteling Company, Inc.
3. The purpose of this affidavit is to provide information regarding the priority dates claimed for the late claim and the amended claim to water right no. 63-31058 for which motions are submitted concurrently herewith.
4. Attached to this affidavit are true and accurate copies of Bureau of Land Management archive documents related to lands located in T04N R02E Section 15 SE $\frac{1}{4}$ SE $\frac{1}{4}$ and Section

AFFIDAVIT OF CHARLES L. HONSINGER IN SUPPORT OF MOTION TO FILE
AMENDED CLAIM TO WATER RIGHT NO. 63-31058 AND A LATE CLAIM - Page 1

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DEC 30 2008

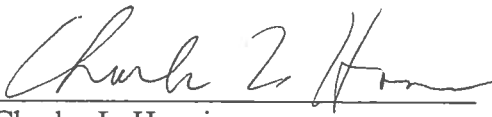
14 S½SW¼ - which lands are currently part of the Terteling Ranch, and to which TTCI has claimed water rights as appurtenant. Such documents are designated as Exhibits A - C to this Affidavit, and are described as follows:

Ex. A. Homestead Proof - Testimony of Witness Jacob Bowers dated May 29, 1899, stating that the claimant settled upon the homestead "eight or nine years ago" and that he had irrigated 8 crops on 8 to 10 acres "every season."

Ex. B. Homestead Proof - Testimony of Witness Bud Clark dated May 29, 1899, stating that the claimant cultivated and raised crops on "about 8 or 10 acres - every season, 9 seasons."

Ex. C. Homestead Proof - Testimony of Claimant Orson Eaton dated May 29, 1899 stating that he had, in the spring of 1891, constructed ditches of ¾ miles and 300 yards, and had raised 7 crops on "about 8 acres" since then.

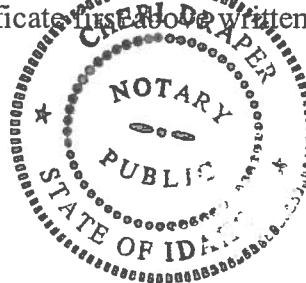
Further your affiant sayeth naught.


Charles L. Honsinger

STATE OF IDAHO)
)ss.
County of Ada)

On this 20th day of December, 2008, before me, the undersigned, a notary public in and for said state, personally appeared Charles L. Honsinger, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

 Charles L. Honsinger
Notary Public for IDAHO
Residing at Meridian, Idaho
My Commission Expires: 12/23/2011

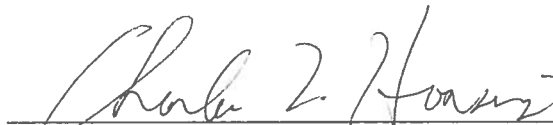
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I certify that on December 29, 2008, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

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Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

Dana Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin Street
Boise, ID 83702
Fax: (208)424-8744



Signature of person mailing form

Exhibit A

HOMESTEAD PROOF—TESTIMONY OF WITNESS.

Jacob R. Bowers, being called as witness in support of the Homestead entry of Oscar Eaton for Sta 2958, testifies as follows:

Ques. 1.—What is your name, age, and post-office address?

Ans. Jacob R. Bowers, age 57 years, po. Price, Ind.

Ques. 2.—Are you well acquainted with the claimant in this case and the land embraced in his claim?

Ans. I am

Ques. 3.—Is said tract within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?

Ans. No sir

Ques. 4.—State specifically the character of this land—whether it is timber, prairie, grazing, farming, coal, or mineral land.

Ans. It is poor hill land - grazing and farming

Ques. 5.—When did claimant settle upon the homestead and at what date did he establish actual residence thereon?

Ans. Eight or nine years ago - Residence at same time

Ques. 6.—Have claimant and family resided continuously on the homestead since first establishing residence thereon? (If settler is unmarried, state the fact.)

Ans. Yes the have

Ques. 7.—For what period or periods has the settler been absent from the land since making settlement, and for what purpose; and if temporarily absent, did claimant's family reside upon and cultivate the land during such absence?

Ans. No absence except a few days working in the neighborhood to gain a livelihood. Family resided continuously

Ques. 8.—How much of the homestead has the settler cultivated and for how many seasons did he raise crops thereon?

Ans. From 8 to 10 acres - Every season 8 crops

Ques. 9.—What improvements are on the land and what is their value?

Ans. Stone, ~~stone~~, fruit trees, shade trees, ditching, outbuildings
Value \$200 I guess

Ques. 10.—Are there any indications of coal, salines, or minerals of any kind on the homestead? (If so, describe what they are, and state whether the land is more valuable for agricultural than for mineral purposes.)

Ans. Not to my knowledge - most valuable for agriculture

Ques. 11.—Has the claimant mortgaged, sold, or contracted to sell, any portion of said homestead?

Ans. Not that I know of

Ques. 12.—Are you interested in this claim; and do you think the settler has acted in entire good faith in perfecting this entry?

Ans. No sir. - I think so, yes

(Sign plainly with full christian name.)

Jacob R. Bowers

I HEREBY CERTIFY that the foregoing testimony was read to the witness before being subscribed and was sworn to before me this 29 day of May, 1899, at my office at Price in Adair County, Ind.

[SEE NOTE ON FOURTH PAGE.]

Edward C. Ganer
Recorder

(The testimony of witnesses must be taken at the same time and place and before the same officer as claimant's final affidavit. The answers must be full and complete to each and every question asked, and officers taking testimony will be expected to make no mistakes in dates, description of land, or otherwise.)

Exhibit B

HOMESTEAD PROOF—TESTIMONY OF WITNESS.

Bud Clark, being called as witness in support of the Homestead entry of Sam Estlin for 14th 29 58, testifies as follows:

Ques. 1.—What is your name, age, and post-office address?

Ans. Bud Clark - age 55 years, P. O., Boise, Idaho

Ques. 2.—Are you well acquainted with the claimant in this case and the land embraced in his claim?

Ans. Yes

Ques. 3.—Is said tract within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?

Ans. No

Ques. 4.—State specifically the character of this land—whether it is timber, prairie, grazing, farming, coal, or mineral land.

Ans. Farming & grazing land - hills

Ques. 5.—When did claimant settle upon the homestead and at what date did he establish actual residence thereon?

Ans. In 1891 - when he settled 1891

Ques. 6.—Have claimant and family resided continuously on the homestead since first establishing residence thereon? (If settler is unmarried, state the fact.)

Ans. Yes - continuously

Ques. 7.—For what period or periods has the settler been absent from the land since making settlement, and for what purpose; and if temporarily absent, did claimant's family reside upon and cultivate the land during such absence?

Ans. For a few days at a time working for a husband. Family resided continuously.

Ques. 8.—How much of the homestead has the settler cultivated and for how many seasons did he raise crops thereon?

Ans. About 8 or 10 acres - ever season, 9 seasons

Ques. 9.—What improvements are on the land and what is their value?

Ans. House, 3 rooms, brick house, 12 x 30. outbuildings; fencing, 500 fruit trees raising. Value \$200

Ques. 10.—Are there any indications of coal, salines, or minerals of any kind on the homestead? (If so, describe what they are, and state whether the land is more valuable for agricultural than for mineral purposes.)

Ans. No sir - more valuable for agriculture

Ques. 11.—Has the claimant mortgaged, sold, or contracted to sell, any portion of said homestead?

Ans. No sir

Ques. 12.—Are you interested in this claim; and do you think the settler has acted in entire good faith in perfecting this entry?

Ans. No sir I think so

(Sign plainly with full christian name.)

Bud Clark

I HEREBY CERTIFY that the foregoing testimony was read to the witness before being subscribed and was sworn to before me this 29 day of May, 1899, at my office at Boise in Ada County, Idaho.

[SEE NOTE ON FOURTH PAGE.]

Edward E. Gano
Recorder

(The testimony of witnesses must be taken at the same time and place and before the same officer as claimant's final affidavit. The answers must be full and complete to each and every question asked, and officers taking testimony will be expected to make no mistakes in dates, description of land, or otherwise.)

Exhibit C

SCANNED

Dec 3 11 2008

HOMESTEAD PROOF—TESTIMONY OF CLAIMANT.

Osborn Eaton, being called as a witness in his own behalf in support of homestead entry, No. 2958, for N6th N6th Sec 22, 86th 56th Twp 15, R 8th SWth 14, Twp 4th North, Range 2 East, testifies as follows:

Ques. 1.—What is your name, age, and post-office address?

Ans. Osborn Eaton, Age 49 years, Brice, Idaho.

Ques. 2.—Are you a native-born citizen of the United States, and if so, in what State or Territory were you born?*

Ans. Yes sir, born in Missouri.

Ques. 3.—Are you the identical person who made homestead entry, No. 2958, at the Brice, Idaho land office on the 6th day of June, 1892, and what is the true description of the land now claimed by you?

Ans. Yes sir: N6th N6th Sec 22, 86th 56th Twp 15, R 8th SWth 14, Twp 4th North, Range 2 East.

Ques. 4.—When was your house built on the land and when did you establish actual residence therein? (Describe said house and other improvements which you have placed on the land, giving total value thereof.)

Ans. In the Spring of 1891 at that time
Box house 10 x 25, 3 rooms; 500 fruit trees; 100 poplars; fencing 10 acres;
ditch 1/4 mile & one corral Value about \$300.

Ques. 5.—Of whom does your family consist; and have you and your family resided continuously on the land since first establishing residence thereon? (If unmarried, state the fact.)

Ans. My wife and two children Yes sir.

Ques. 6.—For what period or periods have you been absent from the homestead since making settlement, and for what purpose; and if temporarily absent, did your family reside upon and cultivate the land during such absence?

Ans. No absence except a few days at a time work for a livelihood, my family resided & cultivated continuously.

Ques. 7.—How much of the land have you cultivated each season and for how many seasons have you raised crops thereon?

Ans. About 8 acres — Have raised 7 crops.

Ques. 8.—Is your present claim within the limits of an incorporated town or selected site of a city or town, or used in any way for trade and business?

Ans. No sir.

Ques. 9.—What is the character of the land? Is it timber, mountainous, prairie, grazing, or ordinary agricultural land? State its kind and quality, and for what purpose it is most valuable.

Ans. Grazing — heavy some part, low along creek bottom Raising & fruit.

Ques. 10.—Are there any indications of coal, salines, or minerals of any kind on the land? (If so, describe what they are, and state whether the land is more valuable for agricultural than for mineral purposes.)

Ans. No sir more valuable for agricultural.

Ques. 11.—Have you ever made any other homestead entry? (If so, describe the same.)

Ans. No.

Ques. 12.—Have you sold, conveyed, or mortgaged any portion of the land; and if so, to whom and for what purpose?

Ans. No sir.

Ques. 13.—Have you any personal property of any kind elsewhere than on this claim? (If so, describe the same, and state where the same is kept.)

Ans. No sir.

Ques. 14.—Describe by legal subdivisions, or by number, kind of entry, and office where made, any other entry or filing (not mineral), made by you since August 30, 1890.

Ans. Have made none.

(Sign plainly with full christian name.)

Osborn Eaton

*(In case the party is of foreign birth a certified transcript from the court records of his declaration of intention to become a citizen, or of his naturalization, or a copy thereof, certified by the officer taking this proof, must be filed with the case. Evidence of naturalization is only required in final (five-year) homestead cases.)

SCANNED

I HEREBY CERTIFY that the foregoing testimony was given by the claimant before being subscribed, and was sworn to before me this 29th day of May, 1899, at my office at Brice in Ada County, Idaho.

[SEE NOTE ON FOURTH PAGE.]

Edward E. Garrett
Recorder

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

Title LXX.—CRIMES.—Ch. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See §1750.)

(4-369.)

HOMESTEAD PROOF.

LAND OFFICE AT
BOISE CITY, IDAHO

Original Application No. 2958

Final Certificate No. 1515

Approved: May. 29. 1899.
James King, Register.
Edward E. Garrett, Receiver.

9-577

FINAL AFFIDAVIT REQUIRED OF HOMESTEAD CLAIMANTS.

SECTION 2291 OF THE REVISED STATUTES OF THE UNITED STATES.

I, Orson Eaton, having made a Homestead entry of the N 8th N 8th E 2nd 36th 56th Sec. 15th R. 8th W. 4th Section No. 14 in Township No. 4 N of Range No. 2 East, subject to entry at Brice, Idaho under section No. 2289 of the Revised Statutes of the United States, do now apply to perfect my claim thereto by virtue of section No. 2291 of the Revised Statutes of the United States; and for that purpose do solemnly swear that I am a native born citizen of the United States; that I have made actual settlement upon and have cultivated and resided upon said land since the 9th day of February, 1890, to the present time; that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole bona fide owner as an actual settler; that I will bear true allegiance to the Government of the United States; and, further, that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States, except

(Sign plainly full christian name.)

I, Edward E. Garrett, of Ada, Idaho,
do hereby certify that the above affidavit was subscribed and sworn to before me this 29th day of May, 1899, at my office at Brice in Ada County, Idaho.

Edward E. Garrett
Recorder

SCANNED

3 Q 2008

RECEIVED
DEC 30 2008
DEPARTMENT OF
WATER RESOURCES

CHARLES L. HONSINGER (ISB #5240)
RINGERT LAW CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657
Attorneys for Claimants The Terteling Company, Inc.

IN RE SRBA	)	SUBCASE NO. 63-31058, LATE CLAIM NO. 63-33148
	)	
CASE 38576	)	BRIEF IN SUPPORT OF MOTION TO FILE AMENDED
	)	AND LATE CLAIMS
	)	
	)	

COMES NOW SRBA Claimant and Objector The Terteling Company, Inc. (hereinafter "TTCI"), by and through its attorneys, Ringert Law, Chartered, and hereby files this *Brief in Support of Motion to File Amended and Late Claims*. The *Motion to file Amended Claim* applies to subcase number 63-31058 for which TTCI filed a claim recommended as "disallowed" by the Idaho Department of Water Resources ("IDWR") in the SRBA, whereas the *Motion to File Late Claim* has been assigned subcase number 63-33148. These *Motions* are filed pursuant to I.R.C.P. 7(b) and Rules 4.d.(2)(d) and 4.d.(2)(e), SRBA Administrative Order No. 1. The grounds for these *Motions* are that TTCI has good cause pursuant to the standards of I.R.C.P. 55(c) for not having amended its claim to water right no. 63-31058 earlier and for not having filed a late claim earlier. Copies of the claims TTCI seeks to file are attached hereto as Exhibits "A" and "B" respectively. This Brief is supported by the *Affidavits* of Andrew J. Terteling, Edward Squires, Charles L. Honsinger and Doug Hunt submitted concurrently herewith, and by the argument herein.

COPY

SCANNED
DEC 30 2008

FACTS

TTCI claimed water right number 63-31058 in the Snake River Basin Adjudication. After the claim was filed, IDWR requested information about the delivery and diversion system for the claimed water right. See *Affidavit of Ed Squires*, Exhibit "B". None of the information requested by IDWR was provided by the claimant, and, as a result, the claim was recommended as "disallowed." In early 2008, Andy Terteling, vice-president of The Terteling Company, Inc. began to switch his focus from groundwater rights claimed by TTCI to surface water rights, and requested that his expert, Ed Squires do a full investigation of the diversion and distribution system for water right no. 63-31058 and of unclaimed water rights on the upper Terteling Ranch. See *Affidavit of Andrew J. Terteling in Support of Motion to File Amended Claim*; *Affidavit of Andrew J. Terteling in Support of Motion to File Late Claim*.. Mr. Squires conducted his investigation and found that the claim to water right no. 63-31058 originally filed was neither accurate nor complete. *Affidavit of Ed Squires in Support of Motion to File Late Claim to Water Right No. 63-31058 and a Late Claim*. Mr. Squires' investigation resulted in his location and mapping of an elaborate system of ditches, laterals and pipes through which water right no. 63-31058 is delivered to various irrigated areas and ponds. *Id.* It is Mr. Squires' opinion from available aerial photography, that water was beneficially used on the places of use claimed pursuant to water right no. 63-31058 as early as 1938.¹ *Id.* Additionally, Mr. Squires was, through his investigation, able to determine the existence of a previously unclaimed water right

¹The water right is claimed with an 1891 priority date based upon the Affidavits of Use attached hereto.

diverted from a series of springs located on the upper Terteling Ranch. Doug Hunt, TTCI's ranch manager for the Terteling Ranch confirms the beneficial use of the springs claimed pursuant to the late claim filed by TTCI, and of the beneficial use of water from Stewart Gulch for irrigation purposes. *See Affidavit of Doug Hunt in Support of Motion to File Late Claim; Affidavit of Doug Hunt in Support of Motion to File Amended Claim.*

ARGUMENT

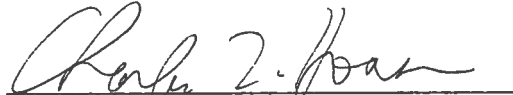
The legal standards for filing a late or amended claim to a water right recommended in the SRBA are set forth in Rules 4.d.(2)(d) and 4.d.(2)(e), SRBA Administrative Order No. 1. According to Administrative Order No. 1, such standards are the same as that by which a default judgment may be set aside pursuant to I.R.C.P. 55(c). *Id.* at p. 6. The I.R.C.P. 55(c) standard takes into account the following factors: 1) whether the default was willful; 2) whether setting aside the judgment would prejudice the opponent; and 3) as with a Rule 60(b) motion, whether a meritorious position has been presented. TTCI's Motion to File a Late Claim and its Motion to File an Amended Claim meet the I.R.C.P. 55(c) standard.

First, TTCI did not willfully fail to file either the amended claim to water right no. 63-31058, or its late claim. Rather, as Andrew J. Terteling states in his affidavit, his focus was primarily on groundwater until earlier in 2008 when he asked Ed Squires to conduct an investigation into the surface water sources on the upper Terteling Ranch. Second, permitting TTCI to file its amended claim and late claim will not prejudice any opponent. There is no opponent with respect to the late claim, and no trial schedule or discovery deadlines has even been set yet in subcase no. 63-31058. Finally, TTCI has set forth a meritorious position with respect to both its motions. Mr. Squires' affidavit indicates that he has addressed IDWR's

concerns regarding the lack of information about the diversion and distribution system for water right no. 63-31058. Together, Mr. Hunt's affidavits and Mr. Squires' affidavit also establish the historical beneficial use of both water right no. 63-31058 and water from the springs claimed pursuant to TTCI's late claim. Beyond that, the Homestead Proof documents discussing the use of water on the property for which these water rights are claimed establish the 1891 priority dates claimed for each.

Because TTCI did not willfully fail to file either its amended claim or its late claim, because neither will prejudice any opponent, and because it has presented a meritorious position as to each, the Court should grant both TTCI's Motion to File a Late Claim, and its Motion to File Amended Claim.

Respectfully submitted this 29th day of December, 2008.


Charles L. Honsinger
Ringert Clark, Chartered

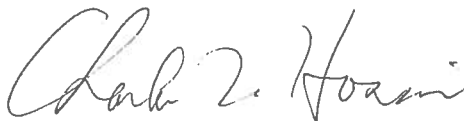
CERTIFICATE OF MAILING

I certify that on December 29, 2008, 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:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

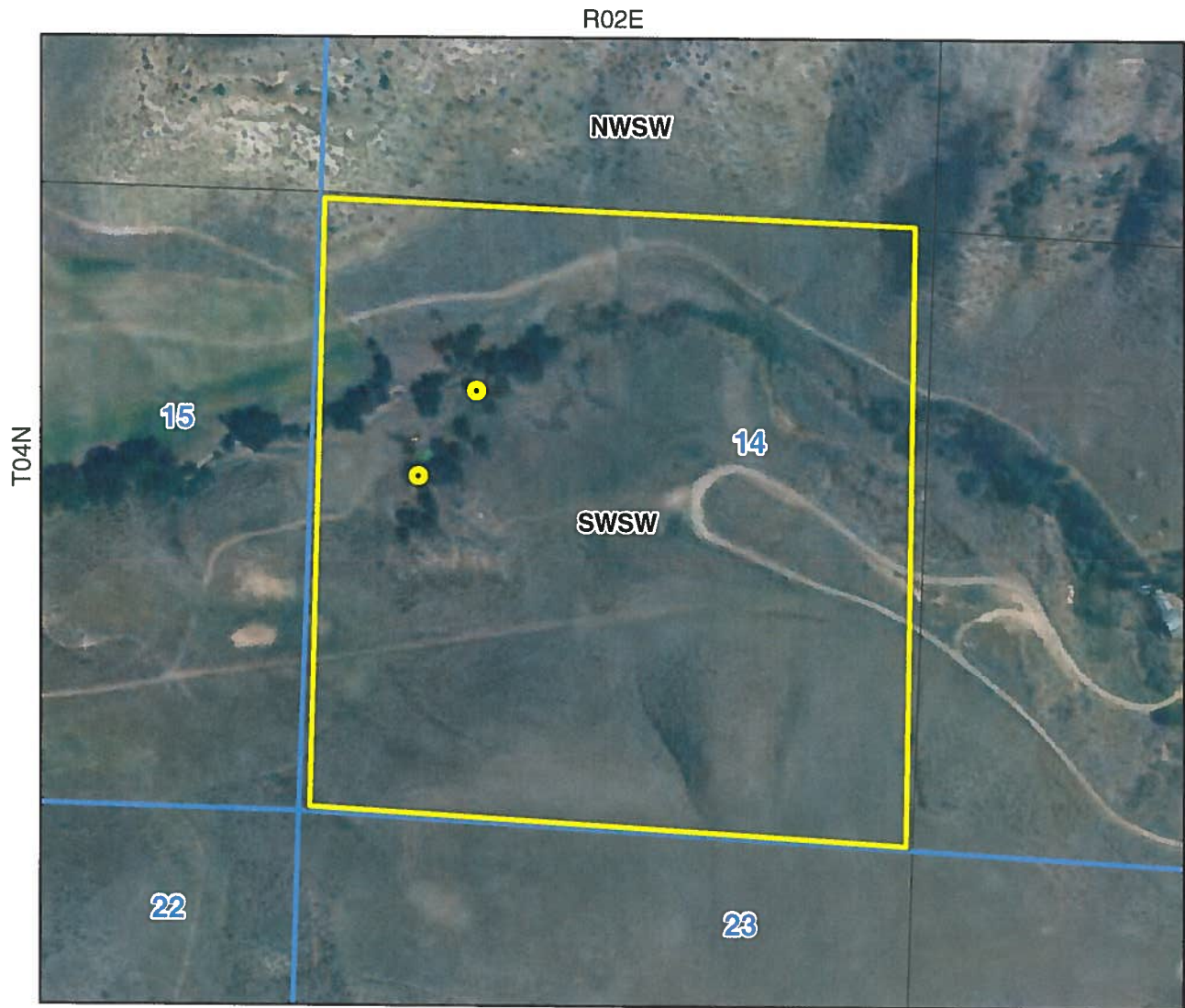
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

Dana Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin Street
Boise, ID 83702
Fax: (208)424-8744



Signature of person mailing form

State of Idaho
Department of Water Resources
Adjudication Recommendation
63-33148
Water Service Area Boundary for The Terteling Company Inc



Legend

-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.05 0.1 0.2 Miles



06/11/2010

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

RIGHT NUMBER: 63-33148

NAME AND ADDRESS: THE TERTELING COMPANY INC
3858 GARDEN CENTER WY SUITE 300
BOISE ID 83703

SOURCE: SPRINGS TRIBUTARY: STEWART GULCH CREEK

QUANTITY: 0.040 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 01/01/1945

POINT OF
DIVERSION: T04N R02E S14 SWSW Within ADA County
T04N R02E S14 SWSW Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.040 CFS

PLACE OF USE: STOCKWATER in ADA County
T04N R02E S14 SWSW

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.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use
Stockwater use is for 300 range cattle.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-33148 V1

WATER RIGHT NUMBER: 63-33148 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	THE TERTELING COMPANY INC 3858 GARDEN CENTER WY SUITE 300 BOISE, ID 83703 (208)338-5200
Attorney	RINGERT CLARK CHARTERED CHARLES L HONSINGER PO BOX 2773 BOISE, ID 83701-2773 (208)342-4591

Priority Date: 01/01/1945

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRINGS	STEWART GULCH CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.040 CFS	
	<u>Total Diversion:</u>	0.040 CFS	

Location of Point(s) of Diversion

SPRINGS	SW 1/4SW 1/4	Sec. 14, Twp 04N, Rge 02E, B.M.
ADA County		
SPRINGS	SW 1/4SW 1/4	Sec. 14, Twp 04N, Rge 02E, B.M.
ADA County		

Place of UseSTOCKWATER Within ADA County

T04N R02E S14 SWSW

Conditions of Approval:

1. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
2. X02 Stockwater use is for 300 range cattle.
3. C18 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.
4. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-33148 V1

Comments:

1. vmusic 6/11/2010 claim

Comment: filed late claim for upper ranch. granted by SM Booth. sources are ponderosa springs and a spring in Homestead pond.

2. vmusic 6/11/2010 recommendation

Comment: advanced claimed priority date of 1891 to 1945. deleted aesthetic and wildlife uses.

3. vmusic 6/11/2010 stock

Comment: Tertelings have several stockwater claims. 300 heard of cattle is the total combined number of heard on the entire ranch. there are also some mixed stock like llama, other small stock.

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal:

Owner Name Connector: OR

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	6/11/2010 10:07:56 AM	vmusic			Active
Priority Date	6/11/2010 10:08:33 AM	vmusic			Active
POD	6/11/2010 10:09:05 AM	vmusic			Active
Source	6/11/2010 10:16:20 AM	vmusic			Active
POU	6/11/2010 10:17:01 AM	vmusic			Active
Use	6/11/2010 10:18:06 AM	vmusic			Active
Season	6/11/2010 10:18:43 AM	vmusic			Active
Quantity	6/11/2010 10:19:37 AM	vmusic			Active
Summary			06/11/2010	vmusic	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
----------------	------------------------	-----------------	-----------------

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-33148 V1

Source	6/11/2010 10:16:20 AM	vmusic	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - aerals, photos provided by consultant and field verification
POU	6/11/2010 10:17:01 AM	vmusic	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required? Description for Question 13 - aerals, standard for use
Use	6/11/2010 10:18:07 AM	vmusic	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - standard for stockwater use
Season	6/11/2010 10:18:43 AM	vmusic	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (No) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required? Description for Question 15 - IDWR standard for use

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-33148 V1

Quantity	6/11/2010 10:19:38 AM	vmusic	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (No) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (Yes) 12. Is a Quantity remark or condition required? Description for Question 7 - not required for stockwater
POD	6/11/2010 10:33:07 AM	vmusic	Updated Shape
Summary	6/11/2010 10:33:39 AM	vmusic	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
Contacts	6/11/2010 10:07:56 AM	vmusic	(Yes) 1. Do you want to schedule an appointment? (No) 2. Do you want to update the field exam contact information? Comment for 1: will do Contact Person: - THE TERTELING COMPANY INC Contact Phone Number: Date of Field Exam: 6/16/2010 9 AM Directions to Property: bogus basin rd

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-33148 V1

General	6/11/2010 10:08:33 AM	vmusic	(Yes) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 2. Was the owner or the owners predecessor in interest of the place of use joined in the later decree? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use? (No) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 13. Has additional evidence of priority date been submitted? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POD	6/11/2010 10:09:05 AM	vmusic	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POD	6/11/2010 10:14:21 AM	vmusic	Updated Shape
POD	6/11/2010 10:15:18 AM	vmusic	Updated Shape
POU	6/11/2010 10:21:16 AM	vmusic	Updated Shape

Water Supply Bank:

SRBA

SUBCASE SUMMARY REPORT 63-33148

[Return to SRBA Home Page](#)

SRBA
01-26-2009

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 63-33148 FILE#: 02236
CLAIMANT: THE TERTELING CO INC
3858 GARDEN CENTER WAYBOISE ID 83703
STATUS: MOT:LATE/AMEND CLAIM SPECIAL MASTER: MELANSON, JOHN M
WATER SOURCE:****** PARTIES INVOLVED ******

THE TERTELING CO INC C ATTY: CHARLES L. HONSINGER

****** ROA ENTRIES ******

<u>12-30-2008</u>	MOTION TO FILE LATE NOTICE OF CLAIM	MF	12-30-2008
✓ <u>12-30-2008</u>	NOTICE OF CLAIM TO A WATER RIGHT		
<u>12-30-2008</u>	AFFIDAVIT OF CHARLES L HONSINGER IN SUPPORT		
Duplicate ↓	OF MOTION TO FILE AMENDED CLAIM TO A WATER		
	RIGHT NO 63-31058 AND A LATE CLAIM TO A		
	WATER RIGHT DIVERTED FROM SPRINGS		
<u>12-30-2008</u>	LODGED: BRIEF IN SUPPORT OF MOTION TO FILE		
	AMENDED AND LATE CLAIMS		
Dup → <u>12-30-2008</u>	AFFIDAVIT OF ED SQUIRES IN SUPPORT OF MOTION		
	TO FILE AMENDED CLAIM TO WATER RIGHT NO		
	63-31058 AND A LATE CLAIM TO A WATER RIGHT		
	DIVERTED FROM SPRINGS		
✓ <u>12-30-2008</u>	AFFIDAVIT OF ANDREW J TERTELING IN SUPPORT OF		
	MOTION TO FILE LATE CLAIM		
<u>12-30-2008</u>	AFFIDAVIT OF DOUG HUNT IN SUPPORT OF MOTION		
	TO FILE LATE CLAIM		
<u>12-30-2008</u>	NOTICE SETTING HEARING - LATE CLAIM	HS	03-17-2009 0130

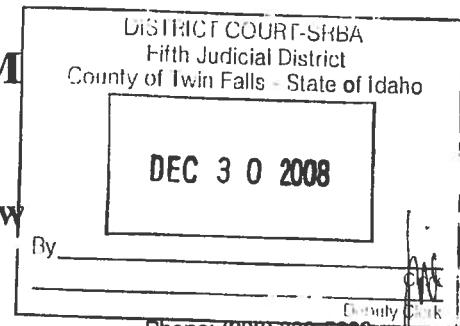
[Return to SRBA Home Page](#)

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576
Indent. Number 63-33148
Date Received _____
Receipt Number _____

**NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW**



Please type or print clearly

1. Name of Claimant(s) The Terteling Company, Inc. Phone: (208) 338-5200
Mailing Address 3858 Garden Center Way, Boise, ID Zip 83703
2. Date of Priority only (1) per claim) May 1, 1891
3. Source of water supply (a) Springs
which is tributary to (b) Stewart Gulch
4. a. Location of existing point of diversion is: Township 04N Range 02E Section 14,
1/4 of SW 1/4 SW 1/4, Govt. Lot, _____ B.M., County of Ada
Additional points of diversion if any: T04N R02E Section 14 SESW
b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
5. Description of existing diversion works. Diversions from springs into very small ponds and spring boxes
6. Water is claimed for the following purposes:

	(both dates are inclusive)	(cfs)	(acre feet)
For <u>Stockwater</u> purposes from <u>1/01</u> to <u>12/31</u> amount <u>0.04 cfs</u> or _____			
For <u>Aesthetic</u> purposes from <u>1/01</u> to <u>12/31</u> amount <u>.04 cfs</u> or _____			
For <u>Wildlife</u> purposes from <u>1/01</u> to <u>12/31</u> amount <u>.04 cfs</u> or _____			

Last Name The Terteling Company, Inc. Ident. Number 63- 33148

7. Total quantity claimed (a) .04 (cfs) and/or (b) ____ (acre feet)
8. Total consumptive use claimed is _____ acre fee per annum.
9. Non-Irrigation uses:
10. Description of place of use:
 a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	2E	14											S, W, A	S W A					

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Ada
12. Do you own the property listed above as place of use? Yes X No _____
13. Other water rights used:
14. Remarks: _____

15. Basis or Claim (check one) Beneficial Use X Posted Notice _____ License _____ Permit _____
 Decree _____

If applicable provide IDWR Water Right Number 63- 33148

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

Last Name The Terteling Company, Inc. Ident. Number 63- 33148

16. Signature (s)

(a) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing documents are true and correct.

Signature or Claimant (s) _____ Date _____
_____ Date _____

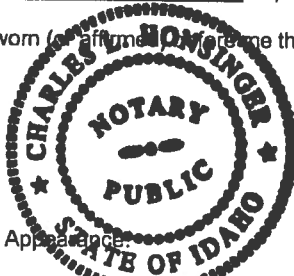
For Organizations: I do solemnly swear or affirm that I am _____ Title _____
of The Terteling Company, Inc. Organization _____, that I have signed the foregoing
document in the space below as _____ of The Terteling Company, Inc.
_____ Title _____ Organization _____
and that the statements contained in the foregoing document are true and correct.

Signed of Authorized Agent *Joe J Terteling*
Title and Organization PRESIDENT TTEI Date 22 DEC 08

State of Idaho/or _____)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 22nd day of December 2008

SEAL



Notary Public *Charles L. Honsinger*
Residing at Bolse, Idaho
My Commission Expires 7/30/2010

17. Notice of Appearance:

Notice is hereby given that I, Charles L. Honsinger, will be acting as attorney at law on behalf of the claimant signing above, and all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

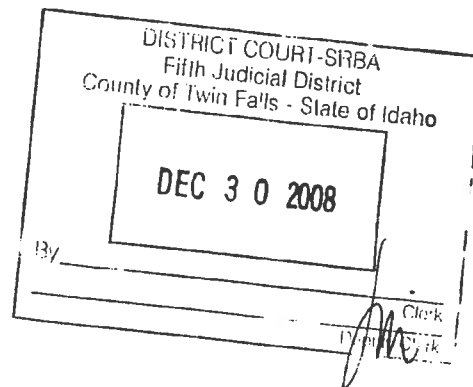
Signature *Charles L. Honsinger*

Address Ringier Law, Chartered, P.O. Box 2773, Bolse, ID 83701

Date December 22, 2008

Last Name The Terteling Company, Inc. Ident. Number 63-33148

CHARLES L. HONSINGER (ISB #5240)
JON GOULD (ISB #6709)
RINGERT LAW CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657
Attorneys for Claimants The Terteling Company, Inc.



IN RE SRBA)

SUBCASE NO. 63-33148

CASE 38576)

AFFIDAVIT OF ANDREW J. TERTELING IN SUPPORT
OF MOTION TO FILE LATE CLAIM

STATE OF IDAHO)

) ss

COUNTY OF ADA)

ANDREW J. TERTELING, being first duly sworn upon his oath, deposes and says that:

1. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
2. I am the Vice-President of The Terteling Company, Inc., the claimant to various water rights in the SRBA, and make this affidavit in that capacity. In my capacity as Vice-President, I am generally aware of all aspects of management of properties owned by The Terteling Company, Inc., including irrigation and water right aspects.
3. I first began involvement in the water rights claimed by The Terteling Company, Inc. when I was hired as the Vice-President approximately three years ago.

4. The Terteling Company, Inc. and T-7, LLC (a related entity) have claimed nearly 30 water rights from various sources, including many groundwater rights. As a result of the importance of ground water to The Terteling Company, Inc.'s wholesale nursery business and its irrigation interests, I have focused my attention upon ground water rights claimed in the SRBA in an attempt to learn as much as possible about them.

5. As the SRBA has progressed I have been able to spend more time learning about all of the water rights claimed by The Terteling Company, Inc., including various spring water rights on the Terteling ranch.

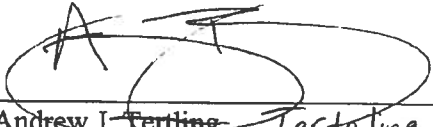
6. Earlier this year, The Terteling Company Inc.'s expert water rights investigator Ed Squires informed me that he had done a preliminary investigation and that The Terteling Company, Inc. had failed to claim springs used for stockwater, aesthetic, and wildlife purposes on the upper Terteling ranch - an area where I have spent very little time.

7. I requested that Mr. Squires do a full investigation of the unclaimed water rights on the upper Terteling ranch with an eye towards making SRBA claims for the same.

8. As a result of Mr. Squires' investigation, we are filing a late claim to developed springs located on the upper Terteling Ranch that have not been previously claimed, and of which I was previously unaware.

9. A copy of the late claim to water right proposed to be filed by The Terteling Company, Inc. is attached hereto

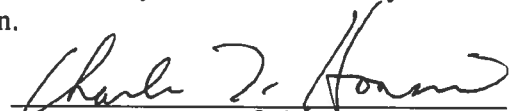
Further your affiant sayeth naught.

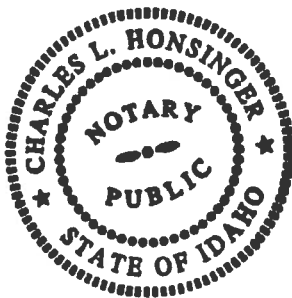

Andrew J. Terteling Terteling

STATE OF IDAHO)
)ss.
County of Ada)

On this 26th day of November, 2008, before me, the undersigned, a notary public in and for said state, personally appeared ANDREW J. TERTELING, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.


Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 7/20/2010

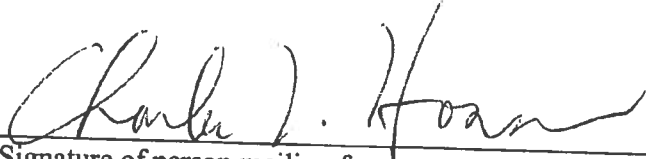


CERTIFICATE OF MAILING

I certify that on December 29, 2008, 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:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449



Signature of person mailing form

CHARLES L. HONSINGER (ISB #5240)
JON GOULD (ISB #6709)
RINGERT LAW CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657
Attorneys for Claimants The Terteling Company, Inc.

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
DEC 30 2008
By _____ Clerk

IN RE SRBA) SUBCASE NO. 63-33148
Case No. 38756) AFFIDAVIT OF DOUG HUNT IN SUPPORT OF
MOTION TO FILE LATE CLAIM

STATE OF IDAHO)
COUNTY OF ADA) ss

DOUG HUNT, being first duly sworn upon his oath, deposes and says that:

1. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
2. I am currently the manager of the Terteling Ranch, owned in part by The Terteling Company, Inc., the claimant to many water rights on the Terteling ranch, and make this affidavit in that capacity. In my capacity as ranch manager, I actively manage the day to day irrigation, livestock ranching, and farming activities on properties owned by The Terteling Company, Inc. I am not personally involved in the process of claiming and managing water rights on the Terteling ranch, although I am involved in the physical use of the water diverted pursuant to those rights.
3. I first began working for The Terteling Company, Inc. when I was hired as a ranch hand/construction worker in 1975. I worked for The Terteling Company, Inc. in that capacity

until approximately 1981. I then worked for The Terteling Company, Inc. on and off until I was hired as the ranch manager in 2000.

4. During my time with The Terteling Company, Inc., I ran cattle on the upper Terteling ranch, and have observed that cattle and wildlife consistently used water from springs claimed pursuant to the late claim recently filed by The Terteling Company, Inc.

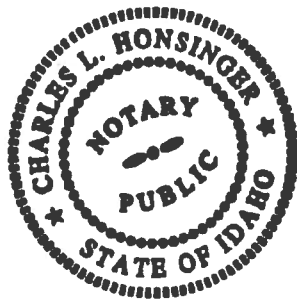
Further your affiant sayeth naught.

Douglas J. Hunt
Doug Hunt

STATE OF IDAHO)
)ss.
County of Ada)

On this 26th day of November, 2008, before me, the undersigned, a notary public in and for said state, personally appeared DOUG HUNT, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



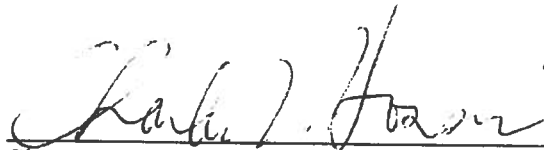
Charles L. Honsinger
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 7/30/2010

CERTIFICATE OF MAILING

I certify that on December 24, 2008, 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:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

A handwritten signature in cursive script, appearing to read "Kelli L. Hawn", written over a horizontal line.

Signature of person mailing form

6/3/10 mto w/ Andy T, Ed Squines, Charles H,
Nick S, Jan Shurtl, Vicky M.

re: 63-31058, 33148

63-33148 - to be included in Spring 2010 Letter
report ^{June 19th} _{Gov deadline}

PODs: 2 springs

Spring in homestead pond - not developed
Ponavosa Spring - dev. spr to stock tank

There are corals, evidence of old activity -- the
Ed coined use of "Homestead". Will see what
Joe TS affidavit says.

Will advance priority date to at least 1 day >
Booth decree (per Joe TS aff to be submitted).

Delet w/initials, res. . Rec as SW only .04 cts.

63-33148 (claim review)

10/16/2009
VLM

late claim .. springs 1891 p. date claimed
SW .04
AE .04
wildlife .04
 .04
) pen: sec 14 SWSW
 SESW

PODS: SWSW sec 14
 SESW sec 14

div from springs into
very small ponds & spring
boxes

- 1- I can't tell where pen is .. SWSW?
 SESW?
- 2- what is the POD in the SWSW
- 3- when were springs developed & how?
- 4- Andy & Ed's aff no help - no info re this late claim
specifically
- 5- may be true that Andy was only concentrated on
BW & in the 3 years he has been associated w/ the
property, but T's have many (8) surface water
claims.
- 6- area just looks bogus.
- 7- I believe the aerial review more meaningful than a
2009 field exam for uses proposed to be > 100 years old.

Desk top review
8-14-09

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT**

Prior to Field Exam

- ☒ Copy of Claim, claim has been signed, sealed, and dated by notary?
☒ Check fees paid
 na ☐ Well logs (if needed)
☐ Copy of topo or NAPP
☐ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
☐ Check POD & POU overlap, see below – include overlapping right for exam
☐ Evidence of Priority – if none, talk with claimant

CLAIMANT INFORMATION – verify contact information is completeClaim No(s) 63-33148Owner: Terdclino CO. Inc Phone No. _____

Current Address: _____

- ☒ No change NAME IS THE SAME
☐ NEW OWNER _____
☐ No change Address _____
☐ NEW ADDRESS _____
☐ How long owned property? _____

Accompanied by: _____

PRIORITY DATE

- ☐ No change – Complete evidence submitted or not necessary
☒ Incomplete – Claimant should be asked when water was first used and submit proof of date.
☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: 5-1-1891

(If priority date, based on your exam, seems questionable, explain below.)

no proof submitted for claimed uses from claimed source.
 1938 will be earliest date I can recommend if I can determine
 continuous use

Source: springs Tributary to Stewart Gulch

- ☒ No Change – SAME SOURCE
☐ Source found is different than claimed: _____

POINT OF DIVERSION

- ☐ No change
☐ POD found is different than claimed: _____
☐ If different, when did POD change? _____

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID

Description of diverting works

see map attached to claim. springs → ponds & spring boxes

OVERLAP REVIEWOther water rights with the same point of diversion: 63-31058⁹

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain:

WATER USES☒ No change☐ Different Uses

Use GW From 1-1 To 12-31 Amount -04 CFS _____ AFA _____
 Use AE From 1-1 To 12-31 Amount -04 CFS _____ AFA _____
 Use wildlife From _____ To _____ Amount _____ CFS _____ AFA _____

will not recommend - no evidence of intent in 1891 or 1938.

TOTAL VOLUME – Groundwater only☐ Incomplete on claim, the total is, Amount NA CFS _____ AFA _____☐ Changes found, the new total is, Amount _____ CFS _____ AFA _____☐ More than 1" per Acre? Yes _____ (claimant must complete excess flow sheet)**NON-IRRIGATION USES:**☒ No change will delete wildlife - does not meet SRPA standard☐ Changes Exam found: Domestic # of homes _____ Stock # _____

Types _____ Additional comments: _____

PLACE OF USE:☐ No Change☐ Changes shown below:

Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Overlap with other water rights: 03-31050?

Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain:

Delivery System Narrative: see detailed map attached to claim

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size

FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

- ① what is the aesthetic source?
- ② where are ponds
- ③ narrative w/ history of diversion & delivery system
- ④ where is POU

delete wildlife & aesthetic
advance priority date

AFTER EXAM THE FILE SHOULD CONTAIN:

- ☐ Completed claim checklist
- ☐ Photographs of POD's and POU
- ☐ GPS readings
- ☐ Completed map and or GIS layout showing POD's and POU

DESKTOP REVIEW
DATE EXAM CONDUCTED: - 4-14-09

FIELD EXAMINER: Wick UNCL

Claim No(s). 63-33148

[illegible]



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

March 30, 2009

CHARLES L HONSINGER
RINGERT LAW CHTD
PO BOX 2773
BOISE ID 83701-2773

RE: Snake River Basin Adjudication (SRBA)
Notice of Claim to a Water Right #63-33148
Your Client: The Terteling Company, Inc.

Dear Mr. Moeller:

The Notice of Claim to a Water Right you filed for your client referenced above was received from the SRBA Court recently. I have enclosed receipt #C088259 for the fees your firm paid. Please retain the receipt for your records.

Your client's Notice of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/287-4916 if you have any questions.

Sincerely,

Craig L. Saxton
Water Rights Supervisor
Adjudication Bureau

CLS:ss:region

Enclosure:

Receipt Referenced Above

SCANNED

MAR 27 2009