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MAY 21 2018

DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF LICENSE NO. 63-9139
IN THE NAME OF: CITY OF BOISE

**CITY OF BOISE RESPONSE TO AND
PROPOSED RESOLUTION OF
PETITION FOR RECONSIDERATION**

The City of Boise ("City"), by and through its counsel of record, submits to the Idaho Department of Resources ("IDWR") this response to and proposed resolution of the Petition for Reconsideration filed in this matter on May 11, 2018 by Edwards Family LLC ("Edwards Petition").

The City submits as Exhibit A attached hereto further modified text of a proposed Condition 11 to include in Water Right License 63-9139, referencing some particular provisions of the 2002 and 2010 Agreements among the parties to this license proceeding. The attached text is further adapted from proposed Condition 11 text submitted for IDWR consideration on behalf of the City of Boise as an attachment to the April 6, 2018 email from undersigned counsel Robert Maynard to Erik Boe and Dana Hofstetter. As indicated in Exhibit A, changes in the text of the proposed Condition 11 in Exhibit A from the text in the April 6, 2018 attachment are shown in redline/strikeout in Exhibit A. The City proposes that

IDWR incorporate the attached Condition 11 in Water Right License 63-9139 as a settlement and resolution of the pending Edwards Petition, based on the following:

1) The City believes that the modified text in Exhibit A adequately addresses the concerns regarding proposed Condition 11 that were expressed in the IDWR April 27, 2018 letter to the City enclosing Water Right License 63-9139 as a Preliminary Order, and copied to the other parties to the 2002 and 2010 Agreements.

2) The modified text in Exhibit A is acceptable to the City for inclusion in the License.

3) Undersigned counsel for the City has conferred with counsel for Edwards and understands that inclusion in License 63-9139 of a Condition 11 comprised of the modified text in Exhibit A will adequately resolve the Edwards Petition (which was limited to the omission in the Preliminary Order License of a condition that references the 2002 Agreement, as modified by the 2010 Agreement), and allow the License to be issued by IDWR as a Final Order.

4) Adding Condition 11 comprised of the modified text in Exhibit A does not have significant implications for IDWR administration of other licenses or the law for persons other than the parties to the 2002 and 2010 Agreements and to this license proceeding.

5) Adding Condition 11 comprised of the modified text in Exhibit A in no way precludes the City with the other parties considering and if appropriate pursuing a ground water management plan under Idaho Code § 42-233b such as that referenced in the IDWR April 27, 2018 letter.

Undersigned counsel is available to discuss any questions or concerns that IDWR or any of the other parties might have regarding the modified text in Exhibit A or this proposed resolution of the Edwards petition. If requested, undersigned counsel and the City will be

happy to coordinate scheduling a meeting with IDWR and the other parties to this proceeding to occur, preferably in advance of June 1 (the date by which undersigned counsel understands the Edwards Petition will be deemed denied if IDWR does not otherwise act).

DATED: May 21, 2018.

PERKINS COIE LLP

By: Robert A. Maynard
Robert A. Maynard

Attorneys for Petitioner City of Boise

EXHIBIT A

PROPOSED REVISED CONDITION 11 FOR CITY OF BOISE WATER RIGHT LICENSE 63-9139 TO RESOLVE 5-11-2018 EDWARDS FAMILY LLC PETITION FOR RECONSIDERATION

Proposed changes from consolidated proposed final version submitted to IDWR by City of Boise in R. Maynard 4-6-2018 email shown below in track changes.

11. The diversion and use of water described in this license is subject to right holder shall ~~comply with the provisions of the following particular provisions~~ sections of those certain stipulated agreements among the parties In the Matter of Petition for Order Authorizing Additional Use Under Existing Permits and Moratorium Order for Water Rights 63-9138 & 63-9139 in the name of the City of Boise, as such provisions have been and may be modified by agreement of the parties and acceptance by the Department in accordance with these stipulated agreements:

a. 2002 Stipulated Agreement For Settlement in Part and Stay of Proceedings Regarding Remainder of Petition (“2002 Agreement”), Section II.C, as modified by the 2010 Second Stipulated Agreement for Settlement in Part of Petition and Stay of Further Proceedings (“2010 Agreement”); Section II.3 (monitoring and reporting plan);

b. 2010 Agreement; Section II.4 (annual Department and City reports) and Section II.5 (annual meeting to review the Section II.4 reports; but not the Section II.6 review referenced in Section II.5); and

c. 2010 Agreement; Section II.12 (City contingency mitigation plan) and Section II.13 (IWRRI model review).

CERTIFICATE OF SERVICE

I, the undersigned, certify that on May 21, 2018, I caused a true and correct copy of the foregoing to be forwarded with all required charges prepaid, by the method(s) indicated below, in accordance with the Rules of Procedure, to the following person(s):

Idaho Department of Water Resources	Hand Delivery	☒
c/o Director	U.S. Mail	☐
322 East Front Street	Facsimile:	☐
PO Box 83720	Overnight Mail	☐
Boise, Idaho 83720-0098		

Jeff Peppersack	Hand Delivery	☒
Chief, Water Allocation Bureau	U.S. Mail	☐
Idaho Department of Water Resources	Facsimile:	☐
322 East Front Street	Overnight Mail	☐
PO Box 83720		
Boise, Idaho 83720-0098		

State of Idaho Dept. of Lands	Hand Delivery	☐
c/o Angela Schaer Kaufmann	U.S. Mail	☒
Office of the Attorney General	Facsimile:	☐
PO Box 83720	Overnight Mail	☐
Boise, Idaho 83720		

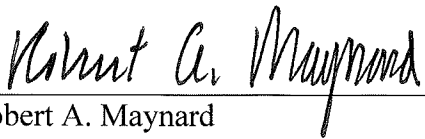
Boise Warm Springs Water District	Hand Delivery	☐
c/o Lyndon Nguyen and Chereese Mclain	U.S. Mail	☒
MSBT Law Chtd.	Facsimile:	☐
950 W. Bannock, Ste. 520	Overnight Mail	☐
Boise, Idaho 83702		

Edwards Family LLC	Hand Delivery	☐
c/o Dana L. Hofstetter	U.S. Mail	☒
Hawley Troxell Ennis & Hawley LLP	Facsimile:	☐
PO Box 1617	Overnight Mail	☐
Boise, Idaho 83701-1617		

State of Idaho, Department of Administration	Hand Delivery	☐
c/o Julie Weaver	U.S. Mail	☒
Idaho Attorney General's Office	Facsimile:	☐
954 West Jefferson Street	Overnight Mail	☐
Boise, Idaho 83720-0010		

The Terteling Company Inc.
c/o Charles L. Honsinger
Honsinger Law PLLC
PO Box 517
Boise, Idaho 83701-0517

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