

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78282

This is to certify that: T7 LLC
3858 GARDEN CENTER WAY STE 300
BOISE, ID 83703

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-3603	WR/DECREED	4/26/1967	1.030 cfs	351.0 af	N/A	78.0	GROUND WATER
63-7595	WR/DECREED	3/7/1973	2.000 cfs	465.5 af	N/A	103.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-3603	NO	YES	YES	YES	NO	NO
63-7595	NO	YES	YES	YES	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-3603	63-3603	1.030 cfs	351.0 af	78.0	357.0	N/A	N/A	N/A	N/A	N/A
63-7595	63-7595	2.000 cfs	465.5 af	103.0	357.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.030 cfs	803.0 af	178.0	357.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 23rd day of December, 2013.


Western Regional Manager

SUPPORT DATA

IN FILE # 63-3603

Transfer No. 78282

WATER RIGHT NO. 63-3603
As Modified by Transfer No. 78282

In accordance with the approval of Transfer No. 78282, Water Right No. 63-3603 is now described as follows:

Right Holder: THE TERTELING CO INC
 3858 GARDEN CENTER WAY STE 300
 BOISE, ID 83703

Priority Date: 4/26/1967

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	1.030 cfs	351.0 af
			1.030 cfs	351.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWNE	Sec 22 Twp 04N Rge 02E	ADA County
GROUND WATER	NWNE	Sec 22 Twp 04N Rge 02E	ADA County
GROUND WATER	NWNE	Sec 22 Twp 04N Rge 02E	ADA County
GROUND WATER	SWNW	Sec 22 Twp 04N Rge 02E	ADA County
GROUND WATER	NWSE	Sec 22 Twp 04N Rge 02E	ADA County
GROUND WATER	NWSW	Sec 22 Twp 04N Rge 02E	ADA County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	02E	14											25	5					30
04N	02E	15													3			38	41
04N	02E	21				2.0									27.0			1.0	30.0
04N	02E	22	3.0	23.0			38.0	18.0	38.0	19.0	25.0	40.0	13.0	18.0		21.0			256.0

Right Acre Limit: 78.0
 POU Total Acres: 357.0

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within three years of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Transfer No. 78282

WATER RIGHT NO. 63-3603
As Modified by Transfer No. 78282

CONDITIONS OF APPROVAL

4. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 5/10/2011.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
6. Diversion and use of low temperature geothermal water under this right from the Pool and Windsock wells is subject to regulation by the watermaster of Water District 63S. Water District 63S regulates the water rights from wells within its boundary that produce from the low temperature geothermal aquifer known locally as the Stewart Gulch Geothermal Aquifer.
7. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works from each point of diversion used under this right.
8. The point of diversion identified in this right as the proposed Miller Gulch Well in the NWSE, S22 is located within the boundaries of the Boise Front Low Temperature Geothermal Resource Groundwater Management Area. The well driller shall monitor water temperatures while drilling the well. If water with a temperature greater than 85 degrees Fahrenheit is encountered by the driller, drilling must immediately cease, and the Department must be notified. Drilling shall not resume until the Department has reviewed the drilling conditions, and established standards for construction with the driller.
9. Diversion and use of water with a temperature greater than 85 degrees Fahrenheit is not authorized under this right except under the Pool Well in the SWNW and the Windsock Well in the NWSW, S22.
10. Diversion and use of ground water shallower than 200 feet is not authorized under this right except under the Pool Well in the SWNW, S22.
11. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
12. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
13. To prevent injury to prior water rights appropriating water from the Boise River and/or the underlying shallow aquifer tributary to Boise River, the new Miller Gulch well in the NWSE, S22 used as a point of diversion for this water right shall be constructed and maintained with unperforated casing and sealed into the first significant confining layer located 200 feet or more below ground surface.

WATER RIGHT NO. 63-3603
As Modified by Transfer No. 78282

CONDITIONS OF APPROVAL

14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 1341.0 af at the field headgate for the place of use.
15. This right when combined with all other rights for the same land is limited to the irrigation of a specific 298 acres within the 357 acre place of use authorized by this right in a single irrigation season. The specific 298 acres to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right. Before changing the 298 acres to be irrigated within the 357 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
16. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
17. This right is limited to the irrigation of 78 acres within the authorized place of use in a single irrigation season.
18. Rights 63-3603, 63-7595, 63-10533 and 63-12540 when combined shall not exceed a total diversion rate of 4.63 cfs, a total annual maximum diversion volume of 1341 af at the field headgate, and the irrigation of 298 acres.
19. Rights 63-308, 63-3603, 63-7595, 63-10533 and 63-12540 when combined shall not exceed the irrigation of 298 acres.
20. Rights 63-3603 and 63-7595 are diverted from the same points of diversion. Rights 63-3603, 63-10533 and 63-12540 are diverted from the Champagne Well in the NWNE, the Creekside Well in the NWNE, the Miller Gulch Well in the NWSE and the Motorcycle Well (cold water only) in the NWNE, all in S22.
21. The Windsock Well in the NWSW, S22 diverts low temperature geothermal water.
22. Cold water will be used to the extent possible before the low temperature geothermal water authorized under this right is used.
23. The Pool Well that is one of the points of diversion is completed in concentric casings. The 10 inch casing is completed in a cold water aquifer. The 8 inch casing within the 10 inch casing is completed in the low temperature geothermal aquifer locally known as the Stewart Gulch Geothermal Aquifer. This right authorizes the diversion from both the low temperature geothermal and the cold water aquifers in the Pool Well
24. Water temperature in the Pool and Windsock Wells (geothermal aquifer) is measured at 120 degrees F.
25. The SRBA Court declined to address the administrative issues of artesian pressure and reasonable pumping levels related to diversions from the low temperature geothermal aquifer locally known as the Stewart Gulch Geothermal Aquifer. Water users may raise these administrative matters directly with IDWR.

WATER RIGHT NO. 63-3603
As Modified by Transfer No. 78282

CONDITIONS OF APPROVAL

26. Rights 63-3603 and 63-7595 when combined shall not exceed a total diversion rate of 3.03 cfs, a total annual maximum diversion volume of 801 af at the field headgate, and the irrigation of 178 acres.

WATER RIGHT NO. 63-7595**As Modified by Transfer No. 78282**

In accordance with the approval of Transfer No. 78282, Water Right No. 63-7595 is now described as follows:

Right Holder: THE TERTELING CO INC
3858 GARDEN CENTER WAY STE 300
BOISE, ID 83703

Priority Date: 3/7/1973

Source: GROUND WATER

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
IRRIGATION	03/15	to 11/15	2.000 cfs	463.5 af
STOCKWATER	01/01	to 12/31	0.050 cfs	2.0 af
			2.000 cfs	465.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWNE	Sec 22 Twp 04N Rge 02E	ADA County
GROUND WATER	NWNE	Sec 22 Twp 04N Rge 02E	ADA County
GROUND WATER	NWNE	Sec 22 Twp 04N Rge 02E	ADA County
GROUND WATER	SWNW	Sec 22 Twp 04N Rge 02E	ADA County
GROUND WATER	NWSE	Sec 22 Twp 04N Rge 02E	ADA County
GROUND WATER	NWSW	Sec 22 Twp 04N Rge 02E	ADA County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	02E	14											25	5					30
04N	02E	15													3			38	41
04N	02E	21				2.0									27.0			1.0	30.0
04N	02E	22	3.0	23.0			38.0	18.0	38.0	19.0	25.0	40.0	13.0	18.0		21.0			256.0

Right Acre Limit: 103.0

POU Total Acres: 357.0

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	02E	22							X										

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within three years of the date of this approval.

Transfer No. 78282

WATER RIGHT NO. 63-7595
As Modified by Transfer No. 78282

CONDITIONS OF APPROVAL

2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 5/10/2011.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
6. Diversion and use of low temperature geothermal water under this right from the Pool and Windsock wells is subject to regulation by the watermaster of Water District 63S. Water District 63S regulates the water rights from wells within its boundary that produce from the low temperature geothermal aquifer known locally as the Stewart Gulch Geothermal Aquifer.
7. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works from each point of diversion used under this right.
8. The point of diversion identified in this right as the proposed Miller Gulch Well in the NWSE, S22 is located within the boundaries of the Boise Front Low Temperature Geothermal Resource Groundwater Management Area. The well driller shall monitor water temperatures while drilling the well. If water with a temperature greater than 85 degrees Fahrenheit is encountered by the driller, drilling must immediately cease, and the Department must be notified. Drilling shall not resume until the Department has reviewed the drilling conditions, and established standards for construction with the driller.
9. Diversion and use of water with a temperature greater than 85 degrees Fahrenheit is not authorized under this right except under the Pool Well in the SWNW and the Windsock Well in the NWSW, S22.
10. Diversion and use of ground water shallower than 200 feet is not authorized under this right except under the Pool Well in the SWNW, S22.
11. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

WATER RIGHT NO. 63-7595
As Modified by Transfer No. 78282

CONDITIONS OF APPROVAL

12. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
13. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 1341.0 af at the field headgate for the place of use.
14. To prevent injury to prior water rights appropriating water from the Boise River and/or the underlying shallow aquifer tributary to Boise River, the new Miller Gulch well in the NWSE, S22 used as a point of diversion for this water right shall be constructed and maintained with unperforated casing and sealed into the first significant confining layer located 200 feet or more below ground surface.
15. This right when combined with all other rights for the same land is limited to the irrigation of a specific 298 acres within the 357 acre place of use authorized by this right in a single irrigation season. The specific 298 acres to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right. Before changing the 298 acres to be irrigated within the 357 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
16. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
17. This right is limited to the irrigation of 103 acres within the authorized place of use in a single irrigation season.
18. Rights 63-3603, 63-7595, 63-10533 and 63-12540 when combined shall not exceed a total diversion rate of 4.63 cfs, a total annual maximum diversion volume of 1341 af at the field headgate, and the irrigation of 298 acres.
19. Rights 63-308, 63-3603, 63-7595, 63-10533 and 63-12540 when combined shall not exceed the irrigation of 298 acres.
20. Rights 63-3603 and 63-7595 when combined shall not exceed a total diversion rate of 3.03 cfs, a total annual maximum diversion volume of 801 af at the field headgate, and the irrigation of 178 acres.
21. Rights 63-3603 and 63-7595 are diverted from the same points of diversion. Rights 63-7595, 63-10533 and 63-12540 are diverted from the Champagne Well in the NWNE, the Creekside Well in the NWNE, the Miller Gulch Well in the NWSE and the Motorcycle Well in the NWNE, all in S22.
22. The Windsock Well in the NWSW, S22 diverts low temperature geothermal water.
23. Cold water will be used to the extent possible before the low temperature geothermal water authorized under this right is used.

WATER RIGHT NO. 63-7595
As Modified by Transfer No. 78282

CONDITIONS OF APPROVAL

24. The Pool Well that is one of the points of diversion is completed in concentric casings. The 10 inch casing is completed in a cold water aquifer. The 8 inch casing within the 10 inch casing is completed in the low temperature geothermal aquifer locally known as the Stewart Gulch Geothermal Aquifer. This right authorizes the diversion from both the low temperature geothermal and the cold water aquifers in the Pool Well
25. Water temperature in the Pool and Windsock Wells (geothermal aquifer) is measured at 120 degrees F.
26. The SRBA Court declined to address the administrative issues of artesian pressure and reasonable pumping levels related to diversions from the low temperature geothermal aquifer locally known as the Stewart Gulch Geothermal Aquifer. Water users may raise these administrative matters directly with IDWR.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

December 24, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

T7 LLC
3858 GARDEN CENTER WAY STE 300
BOISE ID 83703

Re: Transfer No. 78282
Water Right No's: 63-3603, 63-7595

Transfer Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,

A handwritten signature in black ink, appearing to read "Rachel Sommer". The signature is fluid and cursive, with the first name "Rachel" being more prominent than the last name "Sommer".

Rachel Sommer
Administrative Assistant

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on December 24, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No. 78282
Water Right No's: 63-3603, 63-7595

T7 LLC
3858 GARDEN CENTER WAY STE 300
BOISE ID 83703

HONSINGER LAW PLLC
C/O CHARLES L HONSINGER
PO BOX 517
BOISE ID 83701

KENNETH NEELY
WATER MASTER
322 E FRONT ST
PO BOX 83720
BOISE ID 83720



Rachel Sommer
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

TO: Terteling Applications 63-12540, 78280 and 78282

FROM: Steve Lester 

DATE: November 20, 2013 (with 12/16/2013 updates)

RE: Evaluation of Applications

Three ground water applications involving various combinations of existing wells and one proposed cold water well address a proposed PPU north of Quail Hollow Golf Course near Cartwright Road in Boise. This involves cold water wells and two existing low temperature geothermal ("hot") wells in the Boise Front GWMA and Water District #63S (for hot wells). The proposed "Miller Gulch Well" for cold water deeper than 200' is found in all three applications.

Application 63-12540 is a 1999 "Moratorium Application" finally able to be approved following the 2/2008 Amended Application Memo #59 that sorted out lingering moratorium issues.

The transfer applications originated in 2005 and were held due to SRBA complications recently resolved.

- **Transfer 78280** changes all year municipal right **63-10533** developed by United Water from the cold Cartwright Well ¹ to an irrigation right during the irrigation season.
- **Transfer 78282** changes existing irrigation rights **63-3603** and **63-7595**.

These filings include two applicants who are essentially under the same umbrella, Terteling. Contact for the applicants is **attorney Charles Honsinger**.

INFORMATION FOR BOTH TRANSFERS

- **78280 for 63-10533, change all the elements.**
- **78282 for 63-3603 & 63-7595, change/add PODs & POU.**

Summary of Transfer Information Submitted

Authority to File: 78280, amended application attachment #3 purchase agreement allows applicant to proceed for 63-10533 currently owned by United Water Idaho ("UWI"). The agreement was extended through the end of 2013, interpreted to mean until the transfer is approved per unavoidable IDWR, SRBA etc. delays.²

78282, applicant is owner of record for both rights in this transfer and can proceed.

¹ 80° F, warm but not quite hot water, see memo attachments.

² Attorney letter 2/29/2012 extended deadline from 2004 to end of 2012. Update 12/12/2013, attorney email extended it until the end of 2013.

Water Right Validity: Both transfers, all rights decreed within past 5 years and are valid.

Injury to Other Water Rights: Injury is not likely given (a) continued Watermaster #63S regulation over Pool and Windsock hot wells, (b) conditions of approval and (c) lack of protests against the applications.

Enlargement of Use: 78280, no enlargement per UWI data submitted with attorney's 2/29/2012 letter. Despite applicant's argument, historical beneficial use data were required for the nature of use change from municipal to irrigation. Maximum municipal volume data obtained from UWI by the attorney was equivalent to 25 acres of irrigation, see file.

78282 does not seek more water, more acres or any increase in hot water use.

Local Public Interest: Local interest is served by enhanced irrigation to boost the economy, protecting jobs and so forth. Also, the applicant discussed the transfers with Water District #63S members and watermaster at the early 2013 district meeting. Protests were not filed.

Beneficial Use/Conservation of Water Resources: The transfers propose irrigation use, most likely under sprinkler use.

The applications are consistent with criteria of I. C. § 42-222 and should be processed and approved.

Deviations from transfer standards: Allow 3 years in the transfers to fully develop a new well and this PPU, even though 5 years are allowed for the new permit. This somewhat inconsistent message can be addressed later by the owner seeking more time to complete the transfers if necessary. Also, limit POD descriptions to 40-acres instead of some known 10-acre sites plus some where 10-acre sites remain vague or unknown – rather awkward when mixed.

INFORMATION FOR APPLICATION 63-12540

This amended application joins the PPU. Standard conditions of approval address typical issues including but not limited to:

- Measuring devices required.
- Water bearing zone for (a) three existing wells covers 205-510 feet, and (b) 225-595' for the proposed Miller Gulch Well.
- Standard rate/volume per acre.
- Acre limit within PPU.
- Combined use limits for PPU. Note that rate under several rights is actually additive instead of a combined limit (less than the sum) – rate included in condition only to emphasize links with other rights in the PPU.
- Various combinations of shared wells with other rights in the PPU.
- Latter two conditions typically not included with permits but are useful here for this unusual situation subject to lots of ground water controversy for many years.

Note Water District #63S is not applicable to 63-12540, which only includes cold ground water.

Other non-typical issues are covered by additional conditions of approval:

- Shallow ground water less than 200' is not authorized.
- Proposed Miller Gulch Well must be cased and sealed at least to 200' and thru the first significant confining layer.
- Hot water is not authorized. The existing Motorcycle Well consists of an unusual (unique to this local situation?) arrangement decreed in the SRBA: nested casing configuration³ capable of diverting cold water and hot water from the same well, even under the same right.⁴
- This application includes cold water from the Motorcycle Well but not hot water from the same well.
- Appropriation of cold water deeper than 300' in the Boise Front GWMA is conditioned to prevent injury to the hot water resource and senior rights. This might involve curtailment of this new right to some extent or mitigation to some extent if necessary in the future. This follows watermaster and hot water expert Ken Neely's 8/19/2013 comments.
- Acre limit specific shape required for this PPU, 298 acres within 357 acres total for a touchy location as noted above. Applicant's 11/4/2013 map provides that initial shape.

Memo Attachment A summarizes some of the above details.

GENERAL DISCUSSION

Transfer approval conditions are similar to the above permit conditions with some variations as needed. For example, transfers do not require conditions for (a) water bearing zone or (b) cold water deeper than 300' in the Boise Front.

Shallow ground water use is not allowed except from the Pool Well.

Hot water use is allowed to continue but expected to be reduced from the Pool and Windsock Wells, which remain under watermaster control for the hot water use. None of the rights will include hot water from the Motorcycle Well, just cold water.

Various combinations of wells will be shared by various combinations of the rights in the transfers as well as in the new permit. Likewise, various combined limits are appropriate in the transfers as in the new permit.

Senior rights for minor surface water use in the PPU are found. This includes 16 acres in NWNW and SWNW S22 under 63-308 (Stewart Creek). Creek water under 63-32597 (split

³ Think of it as parallel casings tapping different aquifer zones and surrounded by a larger containment casing, hence "nested" casings.

⁴ Hot and cold ground water have formally been considered separate sources since adoption of Transfer Memo #24 in 2002, but Terteling rights with both sources pre-date that determination.

from 63-307) probably covers another ½ acre in SESE S21 in the PPU. That right covers other acres beyond the PPU. The likely inclusion of a fractional acre for a right almost entirely excluded from the PPU is not significant enough to add this latter right number in the combined limit X35 condition. Therefore, the applications are treated as proposed supplemental use to 63-308 and are conditioned that way.

Transfer 72820/63-10533 conditions of approval for the municipal to irrigation conversion closely match the new permit conditions. This transfer does not include shallow or hot ground water.

This right originated as UWI municipal right from the 80° F. Cartwright Well (“warm but not hot”).⁵ The Cartwright Well and right 63-10533 were part of the UWI protested IMAP application package. UWI withdrew the well and right from IMAP. UWI notified IMAP parties of this, see 7/18/2012 letter in Application 78280. Ownership change for 63-10533 can follow transfer approval, consistent with the purchase and sales agreement.

Transfer 78282/63-3603 and 63-7595 conditions of approval similarly resemble the above information. This transfer allows continued use of hot water from The Pool and Windsock Wells and continued use of shallow ground water from the Pool Well. Those two hot wells remain under watermaster control. As already noted, hot water use is expected to decline under this plan.

Data entry affected correct decreed and migrated records. There are no water bank issues.

And Finally

Attorney Dana Hofstetter for Edwards Greenhouses, with 2nd priority hot wells in Water District #63S, wrote a letter of concern to the director on 9/10/2013 regarding these applications. This was not a protest. The letter covers some of the management issues discussed in this memo. Edwards suggested the application should be denied or at least conditioned to prevent injury to Edwards and to prevent additional use from the low temperature geothermal resource.

Applicant’s attorney responded quite vigorously to this 11th hour injection into the process, see 9/12/2013 letter.

IDWR already intended to cover these concerns. A reply is not needed except for a brief “thank you” letter following approval of the applications.

⁵ See Memo Attachment B for more Cartwright Well history.

APPLICATIONS 63-12540, 78280 & 78282

REVIEW MEMO ATTACHMENT A

NOTES FOR CONDITIONS OF APPROVAL

1) PODS, SHARED WELLS

All in T4N, R2E, S22. All existing wells except proposed Miller Gulch Well. All cold water except Windsock is low temperature geothermal ("hot"), Pool Well is hot plus cold ("nested casings" per SRBA conditions), Motorcycle is hot plus cold but proposes just cold water use from that well for all rights.

<u>Well</u>	<u>Tract</u>	<u>63-3603</u>	<u>63-7595</u>	<u>63-10533</u>	<u>63-12540</u>
Champagne (cold)	NWNE	YES	YES	YES	YES
Creekside (cold)	NWNE	YES	YES	YES	YES
Miller Gulch (cold)	NWSE	YES	YES	YES	YES
Motorcycle (cold)	NWNE	YES	YES	YES	YES
Pool (hot + cold)	SWNW	YES	YES	NO	NO
Windsock (hot)	NWSW	YES	YES	NO	NO

2) DIFFERENT COMBOS SHARED WELLS USED

63-12540

- * Share all with 63-10533
- * Share with 63-3603 & 63-7595: Champagne in NWNE, Creekside in NWNE, Miller Gulch in NWSE and Motorcycle (cold water only) in NWNE

78280 @ 63-10533

- * Share all with 63-12540
- * Share with 63-3603 & 63-7595: Champagne in NWNE, Creekside in NWNE, Miller Gulch in NWSE and Motorcycle (cold water only) in NWNE

78282 @ 63-3603

- * Share all with 63-7595
- * Share with 63-10533 & 63-12540: Champagne in NWNE, Creekside in NWNE, Miller Gulch in NWSE and Motorcycle (cold water only) in NWNE

78282 @ 63-7595

- * Share all with 63-3603
- * Share with 63-10533 & 63-12540: Champagne in NWNE, Creekside in NWNE, Miller Gulch in NWSE and Motorcycle (cold water only) in NWNE

3) DIFFERENT COMBOS COMBINED LIMITS

Some existing limits, some per new approvals

63-12540, include on permit for clarity, cfs is sum so not really limit but use for clarity:

63-3603, 63-7595, 63-10533 and 63-12540 @ 298 acres, 4.63 cfs, 1341 af

72820, cfs is sum so not really limit, include for clarity:

63-3603, 63-7595, 63-10533 and 63-12540 @ 298 acres, 4.63 cfs, 1341 af

78282, cfs is sum so not really limit, include for clarity:

63-3603, 63-7595, 63-10533 and 63-12540 @ 298 acres, 4.63 cfs, 1341 af

63-3603 and 63-7595 @ 178 acres, 3.03 cfs, 801 af

4) MANAGEMENT ISSUES

Water bearing zone existing & proposed wells for new right

Avoid shallow ground water to 200 ft.

Avoid more hot water whether in WD 63S or not

New right, cold water deeper than 300, avoid adverse impacts to hot water

Measuring devices, possible future reporting

Specific 298 acres list/map, new list/map if change in future

Allow 3 years for transfer vs. standard 1 year

Well Construction Information Search - Internal...

Search Type
☐ Application ☐ Permit ☒ Driller Report ☐ Field Inspection ☐ Well Modification History

Select All Types [Clear] Clear Type

Administrative
Metal Tag Number [] Activity [] Location []
Application ID [] Application Type [] Township []
Permit ID [] Issuing Region [] Basin Fracture []
Well ID [] Receipt Number [] Sector 27 [] County []
Old Permit Number [] Water Right [] Subdivision [] Lot [] Block []
Administrative Area []

Dates
Permit Approved Select a date [mm/dd/yyyy] To Select a date [mm/dd/yyyy]
Construction Begin Select a date [mm/dd/yyyy] To Select a date [mm/dd/yyyy]
Construction End Select a date [mm/dd/yyyy] To Select a date [mm/dd/yyyy]
Received Select a date [mm/dd/yyyy] To Select a date [mm/dd/yyyy]
Well Inspected Select a date [mm/dd/yyyy] To Select a date [mm/dd/yyyy]

Organization [] Flowing Arcuate []
Depth From [] Depth To [] Ft []
Prod. Rate From [] Prod. Rate To [] gpm []
Low Temp. Geo [] Bottom Hole [] Drilling Co []
Temp [] of []

[Search] [Clear All]

Type	Date	Contact	App ID	Permit ID	Well ID	Metal Tag Number	Status	Twp	Rng	Section	QQQ	Q
Driller Report	05/11/1994	DAVID LOWBER(Owner/Operator)	828513	728178	300441		D4N	02E	27		NW	SV
Driller Report	05/26/1998	J R SIMPLOT CO(Owner/Operator)	822788	722466	306221		D4N	02E	27	SE	NW	NE
Driller Report	05/08/1980	J R SIMPLOT(Owner/Operator)	949031	777391	349204		D4N	02E	27		NE	SE
Driller Report	12/31/1999	CITY OF GARDEN CITY(Owner/Operator)	941375	789725	360740		D4N	02E	27	NW	NW	NE
Driller Report	08/20/1964	JACK KENNEDY(Owner/Operator)	952875	803223	314126		D4N	02E	27			
Driller Report	12/28/1976	UNITED WATER IDAHO INC(Applicant)	953160	830704	401365		D4N	02E	27		SW	NE
Driller Report	10/22/2004	UNITED WATER IDAHO INC(Applicant)	867488	831425	401365		D4N	02E	27		SW	NE
Driller Report	10/22/2004	UNITED WATER IDAHO INC(Applicant)	867489	831430	402028		D4N	02E	27		SW	NE
Driller Report	03/11/1987	J R SIMPLOT (Owner/Operator)	931571	831896	402490		D4N	02E	27	SE	SE	NE

Search Results:

View Docs Update ArchMap Field Inspection Template Well Profile Report Export Results To Excel Well Count: 9

- 11/20/2013
-FL

WELL DRILLER'S REPORT

DEC 23 1976

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

Department of Water Resources

1. WELL OWNER
Name HOWARD MITCHELL
Address RT 1 - CARTWRIGHT RD
Owner's Permit No. X

7. WATER LEVEL
Static water level 280 feet below land surface
Flowing? ☐ Yes ☒ No G.P.M. flow
Temperature 60 ° F. Quality
Artesian closed in pressure p.s.i.
Controlled by ☐ Valve ☐ Cap ☐ Plug

2. NATURE OF WORK
☒ New well ☐ Deepened ☐ Replacement
☐ Abandoned (describes method of abandoning)

3. PROPOSED USE
☐ Domestic ☐ Irrigation ☐ Test ☐ Other (specify type)
☒ Municipal ☐ Industrial ☐ Stock ☐ Waste Disposal or Injection

4. METHOD DRILLED
☒ Cable ☐ Rotary ☐ Dug ☐ Other

5. WELL CONSTRUCTION
Diameter of hole 20 inches Total depth 750 feet
Casing schedule: ☒ Steel ☐ Concrete

Thickness	Diameter	From	To
<u>250</u> inches	<u>20</u> inches	<u>1</u> feet	<u>20</u> feet
<u>250</u> inches	<u>12</u> inches	<u>1</u> feet	<u>550</u> feet
<u>0.4</u> inches	<u>12</u> inches	<u>550</u> feet	<u>750</u> feet
<u> </u> inches	<u> </u> inches	<u> </u> feet	<u> </u> feet
<u> </u> inches	<u> </u> inches	<u> </u> feet	<u> </u> feet

Was casing drive shoe used? ☒ Yes ☐ No
Was a packer or seal used? ☐ Yes ☒ No
Perforated? ☒ Yes ☐ No
How perforated? ☒ Factory ☐ Knife ☐ Torch
Size of perforation 1/8 inches by 4 inches
Number 8 From 490 feet To 550 feet
 perforations 490 feet 550 feet
 perforations feet feet
 perforations feet feet
Well screen installed? ☐ Yes ☒ No
Manufacturer's name
Type Model No.
Diameter Slot size Set from feet to feet
Diameter Slot size Set from feet to feet
Gravel packed? ☒ Yes ☐ No Size of gravel 1/4 inch
Placed from 550 feet to Bottom of Hole feet
Surface seal depth 20' Material used in seal ☒ Cement grout ☐ Pudding clay ☐ Well cuttings
Sealing procedure used ☐ Slurry pit ☐ Temporary surface casing ☒ Overbore to seal depth

6. LOCATION OF WELL
Sketch map location must agree with written location.
Subdivision Name EL PELAR
Lot No. Block No.
County ADA
SW NE SE Sec. 27, T. 4N N/S, R. 2E E/W

8. WELL TEST DATA 7-24-76
☒ Pump ☐ Bailor ☐ Other

Discharge G.P.M.	Draw Down	Hours Pumped
<u>685</u>	<u>370</u>	<u>12</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

9. LITHOLOGIC LOG

Hole Diam.
From
To

Depth
From
To

Material

Water
Yes No

20"	1	15	SAND & SHALE	
"	15	105	Hard Basalt Clay	
"	105	145	Blue shale	
"	145	215	Hard sand stone	
"	215	430	Blue shale	
"	430	485	Gray sand	
"	485	490	Hard green shale	
"	490	550	Dark clay with water	X
			Bubbles	
			Water level 246	
			20' 20" pipe	
			550' 12" pipe	
			Hard packed with #1 sand	
			> 20" hole	
			HARD BASALT	
			5' 660 665	
			WATER pebbles	X
			5' 670 675	
			WATER-PEBBLES	
			5' 680 685	
			WATER	
			HARD BASALT	
			5' 710 715	
			WATER	X
			Bottom of Hole	

10. Work started May 1-76 finished July 3-76

11. DRILLERS CERTIFICATION
Firm Name Howard Mitchell Firm No. 292
Address RT 1 - Cartwright Rd. Date
Signed by (Firm Official) Howard Mitchell
and
(Operator) Same

80°F

became 63-10533

9/11/2013

* SW % NE % Sec. 27, T. 41 N/S, R. 26 E/W

USE ADDITIONAL SHEETS IF NECESSARY FORWARD THE WHITE COPY TO THE

CARTHRIGHT WELL - NOW ABANDONED

Proposed Irrigated Areas

Proposed Permissible Place of Use

(00)

Total Acreage in 1/4-1/4

Actual Size of 5-Acres

Proposed 2014 Irrigated Areas on the Terteling Ranch within the Proposed Permissible Place of Use

November 4, 2013

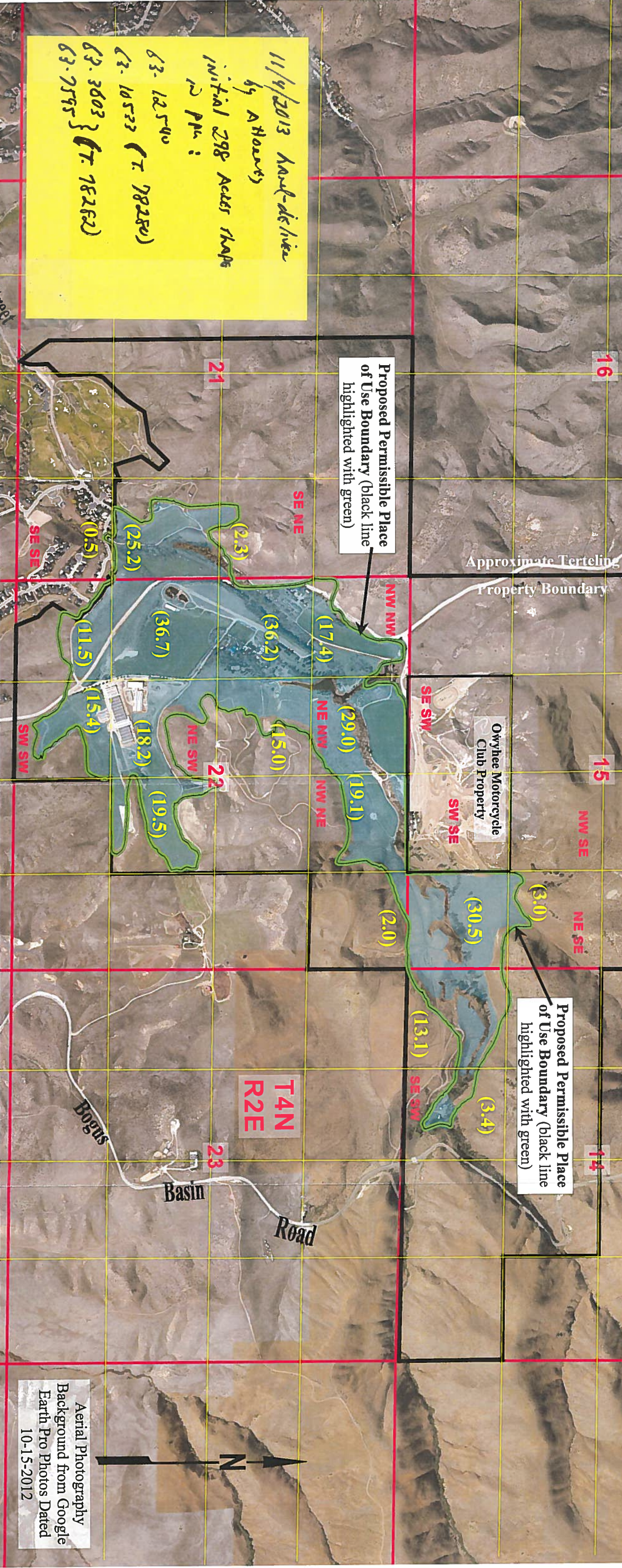


Figure 1. Map of The Terteling Company, Inc.'s proposed "Permissible Place of Use (PPU)" acreage in Township 4 North, Range 2 East associated with Transfer Applications Nos. 78280 and 78282 and Water Right Application No. 63-12540. The exact proposed boundary of the 357-acre PPU irrigable acreage is outlined with a solid thin black line highlighted with green. The blue-grey shaded area represents the proposed 298 acres to be irrigated in the upcoming 2014 irrigation season. The yellow numbers in parentheses shown for each tract (1/4 -1/4 section) represent the total number of acres to be irrigated within that 1/4-1/4 section.

NEW DOCUMENTS

8/19/2013 WATERMASTER COMMENTS

WD #63S STEWART GULCH LOW TEMP GEOTHERMAL (LTG) WATER

BOISE FRONT GWMA, COLD WATER >300', POTENTIAL AFFECT LTG WATER

9/3 – 9/12/2013 ATTORNEY LETTERS

EDWARDS GREENHOUSES CONCERNS (NOT PROTEST)

APPLICANT RESPONSE

11/4/2013 PPU MAP

SPECIFIC 298 ACRES 1ST USED IN LARGER PPU

✱

FOR FILES

63-10533 @ T78280

63-12540 @ NEW PERMIT

63-3603 }
63-7595 } @ T78282

* and 11/20/2013 Review Memo

THESE DOCUMENTS FILED IN 63-12540

-82
12/11/2013

SCANNED
DEC 30 2013