

**VA SETTLEMENT
GEOTHERMAL H2O**

FROM: JAN SHURTE
DATE: 1/27/12

PARTIES INVOLVED IN SETTLEMENT WERE: STATE OF IDAHO, CITY OF BOISE, BOISE WARM SPRINGS WATER DISTRICT, TERTELING CO., INC., US DEPT OF VETERAN AFFAIRS, US GEOLOGICAL SURVEY AND US ARMY RESERVE

63-9890

Permit w/Draft license to be issued. This license was to be recommended for 1.43 cfs and 628.6 acre feet. The 1.43 cfs is based on the maximum flow diverted during the period between the time proof was submitted and the field exam done. See Ken Neeley's binder entitled VA Geothermal. The maximum flow for this permit was 640 gpm in Nov. 1997 or 1.43 cfs. The acre foot amount is based upon a calculation of how much water is needed for the total square footage heated and reported by the VA. This calculated to 628.6 af using 410,410 sq ft. In order to facilitate the issuance of partial decrees in the following geothermal sub cases the license for 63-9890 should be issued as soon as possible. This would allow the late claim to be recommended in the Spring, 2012 report to the SRBA Court and the SF5s to go forward.

When this license was proposed there were no overlapping state based water rights. Right No. 63-29710 was a reserved right and reported as such to the SRBA Court. The settlement proposes to change this reserved right to a beneficial use right dating back to 1910 for .13 cfs and 67 afa. . This right is now an overlapping right affecting the license. Based upon the maximum flow diverted this license will have a quantity remark that when this right and Right No. 63-29710 are combined the diversion rate will not exceed 1.43 cfs and the volume 628.6 acre feet. See licensing memo in file.

Note: There is an overlapping Permit No. 63-10339 which was recommended for cancellation by the field examiner and consequently a letter was sent in 2002 notifying the permit holder that the permit would be voided. Permit No. 63-10339 has not been voided at this time. Per the settlement document this right will be relinquished upon recommendation of B/U Right No. 63-29710 and License No. 63-9890 which will take care of the voiding issue.

There are two reserved water rights that came out of this settlement. They are described below. Because IDWR only reports reserved rights, the beneficial use claim is the only overlapping right at this time.

63-29710

This is a beneficial use right covering the use of geothermal well water dating from 1910. As described under 63-9890 above this right is for .13 cfs for stock water and domestic use from the

same well as 63-9890 (the only producing geothermal well that the VA uses). There are two other wells, one is a monitoring well and one is an injection well per Ken Neeley.

This right was claimed as a reserved water right and during settlement it is now proposed as a beneficial use right. The 10-26-1910 priority date is based upon a letter from Wm. A. Shunk, Lt. Colonel to the Adjutant General mentioning the new hospital along with a 11-26-1910 letter concerning the domestic use, number of people and stock water use with number of livestock.

It appears that this could be recommended as claimed based on normal review for d/s. See memo in file concerning the acre foot calculation based on the number of people and animals.

As a part of the settlement a transfer will be filed, once the partial decree is issued, to change the nature of use from the domestic and stock water use to a heating use. A copy of the proposed transfer is included in the settlement packet. Per Carter Fritschle the change in nature of use took place after 1987 and could not be recommended as an accomplished transfer on 63-29710. I emailed Steve Lester at Western Region to ask if this type of transfer was possible and his reply is in the attached email dated 1-18-12. Neither one of us have seen a transfer from a dom/stock use to a heating use. It appears this transfer can be processed as long as it meets the requirements outlined in Steve's email.

63-29713 & 63-29715

These two rights are reserved rights and per the settlement will be recommended as disallowed. In David Negriz's email he proposed we send SF5s recommending disallowal in lieu of the VA filing a Motion to Withdraw. Per a meeting with our legal staff we have decided to create the SF5s for these rights showing the disallowal without a signature line for the Department. The State of Idaho Attorney General's office has been involved in these negotiations for the Department and the state.

63-29716

This right is a federal reserved right that has been changed from heating for .24 cfs to heating for .12 cfs for future use of the geothermal water.

An SF5 will be created as discussed above.