



STATE OF IDAHO, OFFICE OF THE ATTORNEY GENERAL
700 W. Jefferson Street, Rm. 210
P.O. Box 83720
Boise, Idaho 83720-0010

September 23, 2008

VIA U.S. MAIL and E-MAIL

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Jim DuBois
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U.S. Department of Justice
Denver Field Office
1961 Stout Street, 8th Floor
Denver, CO 80294
James.Dubois@usdoj.gov

Re: Offer of Judgment Subject to I.R.C.P. 68 and I.R.E. 408
Federal Reserved Water Right Claim Nos. 63-29710, 63-29713, 63-29715, and 63-29716
(Geothermal Heating Claims)
Department of Veterans Affairs, USGS, GSA, and Department of Defense

Dear Counsel:

The undersigned objectors and/or respondents hereby make the following offer of judgment in full satisfaction of the United States' federal reserved water right claim nos. 63-29710, 63-29713, 63-29715, and 63-29716. This offer of judgment is inadmissible in any legal proceeding other than for the purposes authorized by I.R.C.P. 68 and I.R.E. 408.

GEOHERMAL WATER RIGHT CLAIM NOS. 63-29710, 63-29713, 63-29715, AND 63-29716

I. THE PARTIES AGREE TO THE FOLLOWING WATER RIGHTS:

Water Right No.	Owner	Basis	Purpose of Use	Priority Date	Flow Rate (cfs)	Volume (afa)
63-09890	Veterans Affairs	State Permit	Heating	April 19, 1982	1.43	628.6
63-29710	Veterans Affairs	State Beneficial Use	Domestic/Stockwater	November 26, 1910	0.13	67.0
					1.56	695.6
63-29716	USGS	Federal Reserved WFR	Heating	October 21, 1980	0.12	1.5

A. Water right permit no. 63-09890

Water right permit no. 63-09890 has not yet been licensed. The Parties agree that each and every element and condition of approval set forth in Stipulation Exhibit D shall be included in any license, notice of claim, director's report, special master's recommendation, and/or decree to be entered for water right permit no. 63-09890.

B. Water right no. 63-29710

i. Domestic and Stockwater Right

The Parties agree that each and every element and condition of approval set forth in Stipulation Exhibit B shall be included in any SF-5, special master's recommendation, and/or decree to be entered for water right no. 63-29710.

Stipulation Exhibit B represents an unclaimed state law beneficial use right based on historical documentation of the United States' use of artesian hot water at the Fort. Please note that although the purpose of use is for domestic and stockwater use, this water right expressly acknowledges that the water thereunder is low temperature geothermal water.

ii. Transfer of Use to Space-Heating Purposes

The United States shall file an application to transfer water right no. 63-29710 so that it can be used in connection with the Veterans Affairs' geothermal space-heating system. The Parties agree that each and every element and condition of approval set forth in Stipulation Exhibit C shall be included in any application to transfer, transfer decision, water right, director's report, special master's recommendation, and/or decree involving such a transfer, including but not limited to:

1. Upon specific notification by the Department, the right holder shall (a) install and maintain acceptable measuring device(s), including data logger(s), temperature gauge(s), and totalizing fluid meter(s), at the authorized point(s) of diversion and reinjection in accordance with Department specifications; (b) report measuring information to the Department upon its request; and (c) contribute a reasonable pro-rata share of costs for periodic updating of the Idaho Water Resources Research

Institute, University of Idaho, Boise Front Low Temperature Geothermal Resource Management Area aquifer computer model or its successor. This condition will not be construed to obligate the expenditure of funds by any public agency beyond the amounts available to the agency for such purposes through lawful authorization and appropriation.

2. This water is for use only on the rectangular parcel known as the Fort Boise Reservation: "Beginning at a point 2145 feet, N. 68° 34' W. from the flagstaff, at fir post 8 feet high and 1 foot in diameter, squared at top of each face marked 'U.S.'; thence running S. 20° E. 54.32 chains, to post 1.21 chains from N.E. corner of small log building bearing S. 35° E.; thence running N. 70° E. 117.50 chains to stake 4 inches square, 2½ feet high; thence running N. 20° W. 54.32 chains to pile of stones; thence running S. 70° W. 117.75 chains to the point of beginning and containing 638 acres, more or less."

3. This water is from a low temperature geothermal resource.

4. All water diverted pursuant to this water right is to be reinjected into the geothermal aquifer from which it is diverted.

The Parties agree that any application to transfer, transfer decision, water right, director's report, special master's recommendation, and/or decree resulting from such a transfer will not result in a total diversion rate and/or total diversion volume under this water right exceeding 0.13 cfs and/or 67.0 afa.

C. Water right no. 63-29716

The Parties agree that each and every element and condition of approval set forth in Stipulation Exhibit E shall be included in any SF-5, special master's recommendation, and/or decree to be entered for water right no. 63-29716.

Upon approval of the application for transfer of water right no. 63-29710 consistent with that set forth in Stipulation Exhibit C and upon entry of a partial decree for late claim no. 63-09890 consistent with that set forth in Stipulation Exhibit D, the Parties agree to enter an SF-5 for water right no. 63-29716 consistent with that set forth in Stipulation Exhibit E.

II. SEQUENCE OF PROCEEDINGS:

A. Entry of Stipulation in SRBA Subcase Nos. 63-29710, 63-29713, 63-29715, and 63-29716

Within 60 days of acceptance of this offer of judgment, the Parties shall enter the attached Stipulation in subcase nos. 63-29710, 63-29713, 63-29715, and 63-29716.

B. Stay of Proceedings in SRBA Subcase Nos. 63-29713, 63-29715, and 63-29716

Within 60 days of acceptance of this offer of judgment, the Parties shall jointly move the

SRBA District Court for an order staying the proceedings in subcase nos. 63-29173, 63-29715, and 63-29716, pending approval of the application for transfer of water right no. 63-29710 consistent with that set forth in Stipulation Exhibit C and entry of a partial decree for late claim no. 63-09890 consistent with that set forth in Stipulation Exhibit D. *See* Stipulation Exhibit A.

C. Filing of SF-5 in SRBA Subcase No. 63-29710

Within 60 days of acceptance of this offer of judgment, the Parties shall file an SF-5 in subcase no. 63-29710 consistent with that set forth in Stipulation Exhibit B.

In the event that there is a special master's recommendation or decree entered in subcase no. 63-29710 that is inconsistent with that set forth in Stipulation Exhibit B, the Parties agree that this agreement shall be voidable upon the discretion of any party. The exercise of such discretion would allow the parties to proceed as if this agreement had never been executed, but must be served upon the other parties in writing within 60 days of the issuance of such offending decision.

D. Filing for Transfer of Water Right No. 63-29710

Within 60 days of the SRBA District Court's issuance of a partial decree in subcase no. 63-29710, the United States shall file an Application for Transfer of Water Right with the Idaho Department of Water Resources (IDWR) consistent with that set forth in Stipulation Exhibit C.

In the event that the United States fails to file its Application for Transfer of Water Right within 60 days of the SRBA District Court's issuance of a partial decree in subcase no. 63-29710, the Parties agree that this agreement shall remain in full force and effect and that the Parties shall proceed in good faith under Parts II.E through H of this agreement.

The undersigned objectors/respondents agree not to object in any administrative and/or judicial proceeding concerning the United States' transfer of use of water right no. 63-29710 that is consistent with that set forth in Stipulation Exhibit C. In the event: (a) the United States files an Application for Transfer of Water Right that is inconsistent with that set forth in Stipulation Exhibit C; (b) IDWR issues a decision on such application that is inconsistent with that set forth in Stipulation Exhibit C; or (c) a reviewing court issues a decision on such application that is inconsistent with that set forth in Stipulation Exhibit C, the Parties agree that this agreement shall be voidable upon the discretion of any party. The exercise of such discretion would allow the parties to proceed as if this agreement had never been executed, but must be served upon the other parties in writing within 60 days of the issuance of such offending action or decision.

E. Filing of Late Notice of Claim for Water Right Permit No. 63-09890

Within 60 days of the United States' acceptance of this offer, the United States shall request IDWR to license water right permit no. 63-09890 consistent with that set forth in Stipulation Exhibit D. Concurrent therewith, the United States shall move the SRBA District Court for leave to file a late notice of claim for water right permit no. 63-09890 consistent with that set forth in Stipulation Exhibit D.

In the event that the United States fails either to request IDWR to license water right

permit no. 63-09890 consistent with that set forth in Stipulation Exhibit D or to move the SRBA District Court for leave to file a late notice of claim for water right permit no. 63-09890 consistent with that set forth in Stipulation Exhibit D within 60 days of the United States' acceptance of this offer, the Parties agree that this agreement shall remain in full force and effect and that the Parties shall proceed in good faith under Parts II.F through H of this agreement.

The undersigned objectors/respondents agree not to object to any license, notice of claim, director's report, special master's recommendation, or decree for water right no. 63-09890 that is consistent with that set forth in Stipulation Exhibit D. In the event: (a) the United States requests IDWR to license water right permit no. 63-09890 inconsistent with that set forth in Stipulation Exhibit D; (b) IDWR issues a license for water right permit no. 63-09890 that is inconsistent with that set forth in Stipulation Exhibit D; (c) the United States moves the SRBA District Court for leave to file a late notice of claim for water right permit no. 63-09890 that is inconsistent with that set forth in Stipulation Exhibit D; or (d) the SRBA District Court issues a special master's recommendation or decree that is inconsistent with that set forth in Stipulation Exhibit D, the Parties agree that this agreement shall be voidable upon the discretion of any party. The exercise of such discretion would allow the parties to proceed as if this agreement had never been executed, but must be served upon the other parties in writing within 60 days of the issuance of such offending action or decision.

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

F. Withdrawal and Disallowal of Claim Nos. 63-29713 and 63-29715

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

G. Filing of SF-5 in SRBA Subcase No. 63-29716

The Parties shall file an SF-5 in subcase no. 63-29716 consistent with that set forth in Stipulation Exhibit E.

H. Filing of Notice of Intent to Relinquish Permit. 63-10339

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

III. ADDITIONAL CONSIDERATION

Upon the conclusion of Part II of this agreement, the Parties (including the United States and its agencies independently and collectively) agree that this agreement shall resolve all claims and rights by, and on behalf of, the United States (and its agencies independently and collectively) to its rights and/or use of the low temperature geothermal resource under state and federal law

within the boundaries of SRBA Basin 63, including but not limited to any interest in water right permit no. 63-10339. This agreement is not intended to preclude the United States from pursuing future development of the geothermal resources at the Fort Boise Reservation under applicable state laws and regulations.

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

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

IV. CONCLUSION

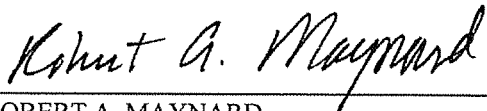
Please present this offer to your clients, Department of Veterans Affairs, USGS, GSA, and Department of Defense. We respectfully request a response by the end of business, September 19, 2008.



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

10/3/08

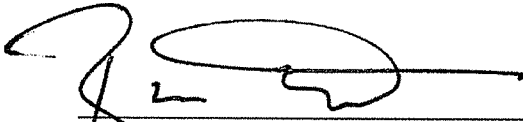
Date



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

10/3/08

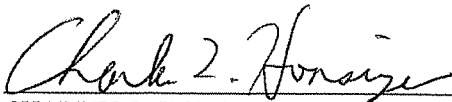
Date



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

10/14/08

Date



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

10/09/08

Date

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

Date

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

Date

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

Date

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID I. STANISH (ISB #7310)
Deputy Attorney General
P.O. Box 44449
Boise, Idaho 83711-4449
Telephone: (208) 334-2400
Facsimile: (208) 854-8072

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

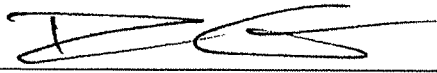
G. FILING OF NOTICE OF INTENT TO RELINQUISH PERMIT. 63-10339

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

H. MUTUAL UNDERSTANDING

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

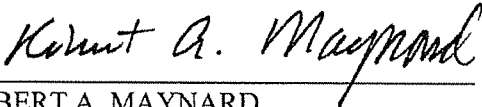
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DAVID I. STANISH
Deputy Attorney General
On behalf of the State of Idaho

10/3/08

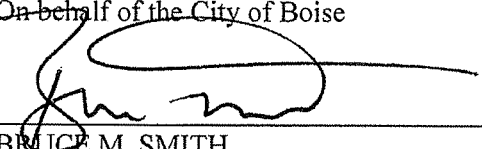
Date



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

10/3/08

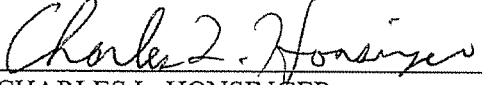
Date



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

10/14/08

Date



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

10/09/08

Date

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

Date

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

Date

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

Date

CERTIFICATE OF SERVICE

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

1. Original to:

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

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

2. Copies to:

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

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

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

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

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

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

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

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

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC O33
BOISE, ID 83724

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

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

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

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

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

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID I. STANISH (ISB #7310)
Deputy Attorney General
P.O. Box 44449
Boise, Idaho 83711-4449
Telephone: (208) 334-2400
Facsimile: (208) 854-8072

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

In Re SRBA	)	Subcase Nos. 63-29713, 63-29715, and
	)	63-29716
	)	
	)	JOINT MOTION TO STAY
Case No. 39576	)	PROCEEDINGS
	)	
	)	
	)	

Claimant United States of America (including its agencies independently and collectively) and Objectors/Respondents the State of Idaho, the Terteling Company, the Boise Warm Springs Water District, and the City of Boise (collectively, the "Parties"), by and through their undersigned counsel, hereby move the Court for an order staying the proceedings in subcase nos. 63-29173, 63-29715, and 63-29716 for no less than six (6) months upon the following grounds:

1. The United States filed SRBA claim nos. 63-29710, 63-29713, 63-29715, and

EXHIBIT A

63-29716, asserting federal reserved water rights for geothermal heating purposes at the rectangular parcel known as the Fort Boise Reservation.

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

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

4. Pursuant to the agreement and the stipulation entered pursuant thereby, complete resolution of the matters in the above-entitled subcases is, however, contingent upon the outcome of certain proceedings involving claim no. 63-29710 and late claim no. 63-09890.

5. Judicial economy would be best served by staying the above-entitled subcases, pending the outcome of the proceedings involving claim no. 63-29710 and late claim no. 63-09890.

6. The Idaho Department of Water Resources has indicated that a time period of no less than six (6) months is appropriate for it to begin, if not complete, the administrative proceedings involving claim no. 63-29710.

PRAYER FOR RELIEF

1. That the Court enter an order staying the proceedings in subcase nos. 63-29173, 63-29715, and 63-29716 for no less than six (6) months; and

EXHIBIT A

2. That the Court grant such other and further relief as it deems proper and just.

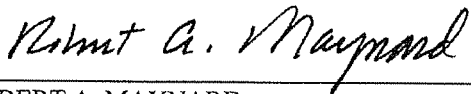
RESPECTIVELY SUBMITTED:



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

10/3/08

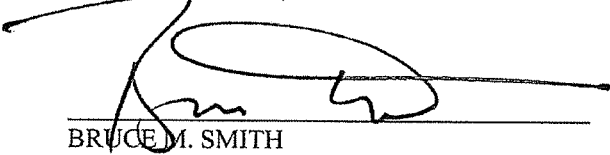
Date



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

10/3/08

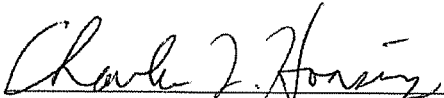
Date



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

10/14/08

Date



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

10/09/08

Date

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

Date

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

Date

EXHIBIT A

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

Date

CERTIFICATE OF SERVICE

I certify that on the _____ day of _____ 2008, I caused to be served the original and/or copy of this JOINT MOTION TO STAY PROCEEDINGS on each of the following persons by the following methods:

1. Original to:

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

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

2. Copies to:

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

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

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

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

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

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

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

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

EXHIBIT A

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC O33
BOISE, ID 83724

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

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

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

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

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

EXHIBIT B

08/26/2008

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

RIGHT NUMBER: 63-29710

NAME AND ADDRESS: ~~UNITED STATES OF AMERICA ACTING THROUGH~~
~~US AIR FORCE~~
~~C/O COMMANDER US ARMY CORPS OF ENGINEERS~~
~~ATTN: GENPS RE PO BOX 3755~~
~~SEATTLE WA 98124-2255~~

VETERANS ADMINISTRATION MEDICAL CENTER
500 W FORT ST
BOISE ID 83702-4598

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: ~~0.920~~ 0.13 CFS
~~67.00~~ AFY

Domestic and stockwater uses are limited to a total combined diversion rate of
0.13 cfs and a total combined diversion volume of 67.00 af.

PRIORITY DATE: ~~04/09/1873~~ 11/26/1910

~~Future use, no existing diversion facilities. Diversions will~~
~~be made on Fort Boise site.~~

POINT OF
DIVERSION:T03N R02E S1 SWSW Within ADA CountyPURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
<u>HEATING</u>	<u>01/01 12/31</u>	<u>0.920 CFS</u>
<u>DOMESTIC</u>	<u>01/01 12/31</u>	<u>0.130 CFS</u>
		<u>67.00 AFY</u>
<u>STOCKWATER</u>	<u>01/01 12/31</u>	<u>0.090 CFS</u>
		<u>4.40 AFY</u>

Domestic use is in a hospital.PLACE OF USE: DOMESTIC in ADA County

<u>T03N R02E S02</u>	<u>NWSW</u>	<u>T03N R02E S02</u>	<u>SWSW</u>
<u>T03N R02E S02</u>	<u>SESW</u>	<u>T03N R02E S03</u>	<u>SESE</u>
<u>T03N R02E S11</u>	<u>NENW</u>	<u>T03N R02E S11</u>	<u>NWNW</u>

STOCKWATER same as DOMESTIC

~~No existing place of use. Future place of use will be on property~~
~~administered by the US Army Reserve on Fort Boise site.~~

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Claimant accepts the following "Conditions of Approval" to be placed in
the Director's Report and Partial Decree for this water right:

1. Upon specific notification by the Department, the right holder shall (a)
install and maintain acceptable measuring device(s), including data
logger(s), temperature gauge(s), and totalizing fluid meter(s), at the
authorized point(s) of diversion and reinjection in accordance with
Department specifications; (b) report measuring information to the
Department upon its request; and (c) contribute a reasonable pro-rata
share of costs for periodic updating of the Idaho Water Resources
Research Institute, University of Idaho, Boise Front Low Temperature
Geothermal Resource Management Area aquifer computer model or its
successor. This condition will not be construed to obligate the
expenditure of funds by any public agency beyond the amounts
available to the agency for such purposes through lawful authorization

EXHIBIT B

and appropriation.

2. This water is for use only on the rectangular parcel known as the Fort Boise Reservation: "Beginning at a point 2145 feet, N. 68° 34' W. from the flagstaff, at fir post 8 feet high and 1 foot in diameter, squared at top of each face marked 'U.S.'; thence running S. 20° E. 54.32 chains, to post 1.21 chains from N.E. corner of small log building bearing S. 35° E.; thence running N. 70° E. 117.50 chains to stake 4 inches square, 2½ feet high; thence running N. 20° W. 54.32 chains to pile of stones; thence running S. 70° W. 117.75 chains to the point of beginning and containing 638 acres, more or less."

3. This water is from a low temperature geothermal resource.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Reserved Beneficial Use

Stockwater 324 head mixed stock

Page _____ of _____

EXHIBIT C
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant Veterans Administration Medical Center Phone _____Mailing address 500 w Fort St, Boise, ID 83702-4598 Email _____**A. PURPOSE OF TRANSFER**

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☒ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes _____
Change purpose to geothermal heating to use as part as existing system.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>63-29710</u>	<u>11/26/1910</u>	<u>0.13cfs/67afa</u>	<u>Heating</u>	<u>01/01</u> to <u>12/31</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 0.13 cubic feet per second and/or 67 acre-feet per annum.

3. Source of water Ground water tributary to _____

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion
		SE	SW	02	03N	02E	Ada	VA geothermal well

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02E	03N	02										X	X	X					

Total Acres _____

PART 1**6. General Information:**

- a. Description of diversion system Water to be used in existing system described in permit no. 63-09890. All water to be reinjected into geothermal aquifer from which it was diverted.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
No X Yes _____ If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes & list name of entity : _____
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
N/a
- d. Remarks:
Claimant accepts the conditions of approval set forth in Attachment I to this application.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And the said application is hereby _____, subject to the following conditions:

Witness my hand this _____ day of _____, 20 _____.

For the Director

EXHIBIT C
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right as evidenced by:
 - a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
 - b. License No. _____ issued by the Idaho Department of Water Resources.
 - c. Claim No. _____ on file with the Idaho Department of Water Resources.
 - d. Transfer No. _____ which produced this right.
2. Attach copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water _____ tributary to _____
4. Date or priority _____
5. Water is used for the following purposes:

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion

8. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres _____

9. Describe any other water rights used for the same purpose as described above _____

EXHIBIT C
PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

_____ If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED*(If the entire right is to be changed by the applicant, omit part B and C.)*

1. amount Entire Right for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion

3. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion

3. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres _____

EXHIBIT C
 STATE OF IDAHO
 DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT
 PART 3**

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for the rights described in part 1. Clearly depict the land by section, township and range number.

Scale: 2 inches equal 1 mile. Draw plan in ink.

B. CHANGES IN NATURE OF USE

1.

<u>New Nature of Use</u>	<u>Amount(cfs/af-ft)</u>	<u>Hours/days/year</u>	<u>Period of Use</u>
<u>Heating</u>	<u>0.13cfs/67afa</u>	<u></u>	<u>01/01</u> to <u>12/31</u>
<u></u>	<u></u>	<u></u>	<u></u> to <u></u>
2. Quantity and quality of return flows and location of discharge: Water to be used in existing system described in permit no. 63-09890. All water to be reinjected into geothermal aquifer from which it was diverted.
3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

(Signature of Applicant)

Print Name (and title, if applicable)

Subscribed and sworn to before me this _____ day of _____, 20 _____.

(Notary Public)

My commission expires _____

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim. Check by _____ Fee _____

Received by _____ Date _____

Published in _____ Copies of protest forwarded by _____

Pub. Dates _____ Hearing held by _____ Date _____

Watermaster recommendations requested on _____ Recommended for ☐ approval ☐ denial

_____ received _____ by _____

Copy of transfer sent to lien holder _____

EXHIBIT C

Attachment I

Applicant requires that any transfer of water right no. 63-29710 shall include the following explanatory remarks:

Owner accepts the following "Conditions of Approval" to be placed upon this water right:

1. Upon specific notification by the Department, the right holder shall (a) install and maintain acceptable measuring device(s), including data logger(s), temperature gauge(s), and totalizing fluid meter(s), at the authorized point(s) of diversion and reinjection in accordance with Department specifications; (b) report measuring information to the Department upon its request; and (c) contribute a reasonable pro-rata share of costs for periodic updating of the Idaho Water Resources Research Institute, University of Idaho, Boise Front Low Temperature Geothermal Resource Management Area aquifer computer model or its successor. This condition will not be construed to obligate the expenditure of funds by any public agency beyond the amounts available to the agency for such purposes through lawful authorization and appropriation.
2. This water is for use only on the rectangular parcel known as the Fort Boise Reservation: "Beginning at a point 2145 feet, N. 68° 34' W. from the flagstaff, at fir post 8 feet high and 1 foot in diameter, squared at top of each face marked 'U.S.'; thence running S. 20° E. 54.32 chains, to post 1.21 chains from N.E. corner of small log building bearing S. 35° E.; thence running N. 70° E. 117.50 chains to stake 4 inches square, 2½ feet high; thence running N. 20° W. 54.32 chains to pile of stones; thence running S. 70° W. 117.75 chains to the point of beginning and containing 638 acres, more or less."
3. This water is from a low temperature geothermal resource.
4. All water diverted pursuant to this water right is to be reinjected into the geothermal aquifer from which it is diverted.

DRAFT

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-09890

Priority: April 19, 1982

Maximum Diversion Rate: 1.43 CFS

Maximum Diversion Volume: 612.8 AF 628.6 AF

It is hereby certified that VETERANS ADMINISTRATION MEDICAL CENTER
500 W FORT ST
BOISE ID 83702-4598 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated April 19, 1982; and has submitted Proof of
Beneficial Use on November 28, 1989. An examination indicates that the works have a diversion
capacity of 1.43 cfs of water from:

SOURCE

GROUND WATER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>	
HEATING	01/01 to 12/31	1.43 CFS	612.8 AF	<u>628.6 AF</u>

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 2, Twp 03N, Rge 02E, B.M. ADA County

PLACE OF USE: HEATING

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N 02E 2									X	X	X						

CONDITIONS OF APPROVAL

1. Heating use is for the space heating of buildings.
2. ~~Some of the water use authorized by this right is claimed with an earlier priority date on Snake River Basin Adjudication Claim No. 63-29713. If Claim 63-29713 is decreed as it is claimed, this right shall be diminished by the amount necessary to avoid any redundancy of water rights.~~
3. Return flow discharged to a subsurface system must be authorized by a separate injection well permit.
4. All water diverted pursuant to this water right is to be reinjected into the geothermal aquifer from which it is diverted.
5. Upon specific notification by the Department, the right holder shall (a) install and maintain acceptable measuring device(s), including data logger(s), temperature gauge(s), and totalizing fluid meter(s), at the authorized point(s) of diversion and reinjection in accordance with Department specifications; (b) report measuring information to the Department upon its request; and (c) contribute a reasonable pro-rata share of costs for periodic updating of the Idaho Water Resources Research Institute, University of Idaho, Boise Front Low Temperature Geothermal Resource Management Area aquifer computer

EXHIBIT D

model or its successor. This condition will not be construed to obligate the expenditure of funds by any public agency beyond the amounts available to the agency for such purposes through lawful authorization and appropriation.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

EXHIBIT E

IWT072

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS RESERVED UNDER FEDERAL LAW

Right Number: 63-29716

Name and Address: UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
US GEOLOGICAL SURVEY
230 COLLINS ROAD
BOISE, ID 83702-5420

Source: GROUND WATER

Quantity: ~~0.24 CFS~~ 0.12 CFS
1.5 AFAPriority Date: ~~04-09-1873~~ 10-21-1980

Diversion Point: T03N R02E S11 NENW Within Ada County

POINT OF DIVERSION: FUTURE USE, NO EXISTING DIVERSION FACILITIES. DIVERSIONS WILL BE MADE ~~ON FORT BOISE SITE. THE POINT OF DIVERSION SHOWN ABOVE IS BY IDWR FOR DATA CONVENIENCE AND IN NO WAY LIMITS OR DEFINES THE WATER RIGHT CLAIMED. ONLY WITHIN THAT PORTION OF THE FORT BOISE RESERVATION SET FORTH IN THE ACT OF OCTOBER 21, 1980, PUB L. NO. 96-479, § 8, 94 STAT. 2305, 2310.~~

Purpose and

Period of Use:	Purpose of Use	Period of Use	Quantity
	Heating	01-01 TO 12-31	~~0.24 CFS~~
			0.12 CFS
			1.5 AF

Place of Use:	Heating	Within Ada County
	T03N R02E S11	NENW NWNW

NO EXISTING PLACES OF USE. FUTURE PLACE OF USE WILL BE ~~ON USGS ADMINISTERED PROPERTY ON FORT BOISE SITE. PLACE OF USE SHOWN ABOVE IS BY IDWR FOR DATA CONVENIENCE AND IN NO WAY LIMITS OR DEFINES THE WATER RIGHT CLAIMED. ONLY WITHIN THAT PORTION OF THE FORT BOISE RESERVATION SET FORTH IN THE ACT OF OCTOBER 21, 1980, PUB L. NO. 96-479, § 8, 94 STAT. 2305, 2310.~~

Other Provisions Necessary for Definition / Administration of this Water Right:

LEGAL DESCRIPTION OF RESERVATION: ~~THE ORIGINAL RESERVATION OF APRIL 9, 1873, WAS DESCRIBED AS FOLLOWS: "BEGINNING AT A POINT 2145 FEET, N. 68 DEG., 34 MIN. W FROM THE FLAGSTAFF, AT FIR POST 8 FEET HIGH AND 1 FOOT IN DIAMETER, SQUARED AT TOP AND EACH FACE MARKED "U.S."; THENCE RUNNING S. 20 DEG. E. 54.32 CHAINS, TO POST 1.21 CHAINS FROM N.E. CORNER OF SMALL LOG BUILDING BEARING S. 35 DEG. E.; THENCE RUNNING N. 70 DEG. E. 117.50 CHAINS TO STAKE 4 INCHES SQUARE, 2 1/2 FEET HIGH; THENCE RUNNING N. 20 DEG. W. 54.32 TO PILE OF STONES; THENCE RUNNING S. 70 DEG. W.~~

EXHIBIT E

~~117.75 CHAINS TO THE POINT OF BEGINNING AND CONTAINING 638 ACRES, MORE OR LESS. ALL THE BEARINGS ARE TRUE MERIDIAN." THE RESERVATION OF FEBRUARY 13, 1911, WAS DESCRIBED AS FOLLOWS: "INT. 3N, R. 3E, B.M., LOT 4 AND THE SE 1/4 OF THE NE 1/4 SEC. 5 AND LOTS 1 AND 2, SEC. 6. IN T. 4N, R. 3E, B.M., THE SE 1/4 SEC. 8; THE S. 1/2 SEC. 9; ALL OF SEC. 17, THE NW 1/4, THE E 1/2 AND THE SW 1/4 SEC. 20, ALL OF SEC. 21; THE W 1/2 SEC. 22, THE W 1/2 SEC. 27; ALL OF SECS. 28, 29, AND 30; ALL OF SEC. 31, EXCEPT 20.596 ACRES EMBRACED IN "SUNNYSIDE LODE" PATENTED TO W.P. RICHARDS AND DAVID CEKELER, AND ALL OF SEC. 32; THE N. 1/2 OF THE NW 1/3 AND THE SW 1/4 OF THE NW 1/4 SEC. 33." LIST OF DOCUMENTS CREATING THE FEDERAL RESERVATION: EXECUTIVE ORDER OF APRIL 9, 1873 EXECUTIVE ORDER OF FEBRUARY 13, 1911 THE PRESENTLY FEDERALLY OWNED PROPERTY ADMINISTERED BY THE U.S. GEOLOGICAL SURVEY IS SHOWN ON THE MAP ATTACHED TO CLAIM.~~

1. ACT OF OCTOBER 21, 1980, PUB L. NO. 96-479, § 8, 94 STAT. 2305, 2310 SETS FORTH THE FOLLOWING: "THE SECRETARY OF THE INTERIOR, THROUGH THE BUREAU OF LAND MANAGEMENT, IS AUTHORIZED TO UTILIZE GEOTHERMAL RESOURCES FOUND UNDER THE PARCEL KNOWN AS THE BOISE DISTRICT OFFICE SITE, DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF THE OLD FORT BOISE MILITARY RESERVATION, THENCE NORTH 70 DEGREES 0 MINUTES EAST, 1,448.2 FEET; THENCE NORTH 4 DEGREES 32 MINUTES EAST, 627 FEET TO THE TRUE POINT OF BEGINNING; THENCE THE FOLLOWING COURSES AND DISTANCES: SOUTH 87 DEGREES 8 MINUTES WEST, 696.5 FEET; THENCE NORTH 21 DEGREES 2 MINUTES WEST, 532 FEET; THENCE SOUTH 69 DEGREES 4 MINUTES WEST, 21.9 FEET; THENCE NORTH 22 DEGREES 40 MINUTES WEST, 86.3 FEET; THENCE NORTH 84 DEGREES 50 MINUTES EAST, 993.6 FEET; THENCE SOUTH 4 DEGREES 32 MINUTES WEST, 624.95 FEET TO THE POINT OF BEGINNING; CONSISTING OF 11.53 ACRES, MORE OR LESS, CONTAINED IN SECTION 11, TOWNSHIP 3 NORTH, RANGE 2 EAST, BOISE MERIDIAN, IDAHO."

2. THIS WATER IS FOR USE ONLY WITHIN THAT PORTION OF THE FORT BOISE RESERVATION SET FORTH IN ACT OF OCTOBER 21, 1980, PUB L. NO. 96-479, § 8, 94 STAT. 2305, 2310.

3. ALL WATER DIVERTED PURSUANT TO THIS WATER RIGHT IS TO BE REINJECTED INTO THE GEOTHERMAL AQUIFER FROM WHICH IT IS DIVERTED.

4. UPON SPECIFIC NOTIFICATION BY THE DEPARTMENT, THE RIGHT HOLDER SHALL (A) INSTALL AND MAINTAIN ACCEPTABLE MEASURING DEVICE(S), INCLUDING DATA LOGGER(S), TEMPERATURE GAUGE(S), AND TOTALIZING FLUID METER(S), AT THE AUTHORIZED POINT(S) OF DIVERSION AND REINJECTION IN ACCORDANCE WITH DEPARTMENT SPECIFICATIONS; (B) REPORT MEASURING INFORMATION TO THE DEPARTMENT UPON ITS REQUEST; AND (C) CONTRIBUTE A REASONABLE PRO-RATA SHARE OF COSTS FOR PERIODIC UPDATING OF THE IDAHO WATER RESOURCES RESEARCH INSTITUTE, UNIVERSITY OF IDAHO, BOISE FRONT LOW TEMPERATURE GEOTHERMAL RESOURCE MANAGEMENT AREA AQUIFER COMPUTER MODEL OR ITS SUCCESSOR. THIS CONDITION WILL NOT BE CONSTRUED TO OBLIGATE THE EXPENDITURE OF FUNDS BY ANY PUBLIC AGENCY BEYOND THE AMOUNTS AVAILABLE TO THE AGENCY FOR SUCH PURPOSES THROUGH LAWFUL AUTHORIZATION AND APPROPRIATION.

EXHIBIT E

~~5. THE PRESENTLY FEDERALLY OWNED PROPERTY ADMINISTERED BY THE
U.S. GEOLOGICAL SURVEY IS SHOWN ON THE MAP ATTACHED TO CLAIM.~~

Explanatory Material: Basis of Claim - Reserved

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

RELINQUISHMENT OF PERMIT

I, _____, hereby relinquish to the State of Idaho,
all my right, title and interest in and to Permit to Appropriate the Public Waters of the
State of Idaho, No. 63-10339.

Signed this _____ day of _____, 20 _____.

Permit Holder(s)
