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AUG 26 2010

**DEPARTMENT OF
WATER RESOURCES**

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Attorneys for Petitioner City of Boise

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PETITION FOR
ORDER AUTHORIZING ADDITIONAL
USE UNDER EXISTING PERMITS AND
MORATORIUM ORDER FOR WATER
RIGHTS 63-9138 & 63-9139 IN THE
NAME OF THE CITY OF BOISE,

**MOTION FOR ISSUANCE OF ORDER TO
ACCEPT SECOND STIPULATED
AGREEMENT FOR SETTLEMENT IN
PART OF PETITION AND TO STAY
FURTHER PROCEEDINGS**

COMES NOW Petitioner City of Boise ("City"), by and through its counsel of record, pursuant to Rule 612 of the Rules of Procedure of the Department (IDAPA 37.01.01.612), and hereby requests issuance of an interim order ("Order") by the Director to accept a second stipulated agreement reached among each of the participants in this proceeding ("Parties"), for settlement in part of the City's Petition and to stay further proceedings in this matter. Counsel for the City has been authorized by counsel for each of the other Parties to represent that each of the other Parties join in this motion. The proposed form of the Order is submitted as Exhibit B to this Motion.

I. BACKGROUND

The relief requested by the City Petition filed in this matter seeks Idaho Department of Water Resources ("IDWR") authorization of phased increases up to 310 million gallons

per water year ("mmg/yr") in the diversion pumping production limit under City of Boise water right permits 63-9138 and 63-9139 ("City Permits") for low temperature geothermal water resource wells in the Boise Front Geothermal Resource Ground Water Management Area ("BFGMA"), in accordance with the provisions of the June 10, 1988 IDWR Order Establishing A Moratorium applicable to the BFGMA, as extended ("Moratorium Order"). In an April 14, 2009 Order, the IDWR further extended the moratorium originally established in the June 10, 1988 Moratorium Order for an additional five years, through May 5, 2014.

In a September 6, 2002 Order ("2002 Order"), the Director accepted the July 24, 2002 Stipulated Agreement For Settlement in Part and Stay of Proceedings Regarding Remainder of Petition ("2002 Agreement") executed among the Parties. The 2002 Order authorized, based on the 2002 Agreement an increase in the production limit for use under the City Permits to 230 mmg/yr, effective October 1, 2002, and stayed further proceedings in this matter regarding any increase in the City Permits production limit above 230 mmg/yr. In a March 24, 2004 Order ("2004 Order"), the Director extended the stay of further proceedings in this matter.

The proceedings in this matter have remained stayed after completion of the Idaho Water Resources Research Institute ("IWRRI") Project described in the 2002 Agreement while the IDWR and the Parties monitored conditions and use of the low temperature geothermal water resource within the BFGMA, assisted by the "Review of Boise Front Geothermal Monitoring Data" reports prepared annually for each water year by IDWR, and while the Parties have negotiated further settlement regarding the City's Petition.

II. BASIS FOR THIS MOTION

The Parties have now executed a Second Stipulated Agreement for Settlement in Part

of Petition and Stay of Further Proceedings ("Second Agreement"), attached as Exhibit A to this Motion. The Second Agreement incorporates by reference and supplements the 2002 Agreement to cover phased increases in the City Permits production limit above 230 mmg/yr up to 310 mmg/yr. Second Agreement, pages 1-2. The Second Agreement modifies and supersedes the 2002 Agreement only as specifically stated and described in the Second Agreement. *Id.*, page 2.

This current Motion is submitted pursuant to the Second Agreement. Section II.10. of the Second Agreement provides that the City shall file a motion in this matter, in which the other Parties shall join, requesting acceptance of the Second Agreement and issuance by the Director of an interim order in the form attached to the Second Agreement, which is also separately attached as Exhibit B to this Motion. Second Agreement, pages 5-6. The proposed form of Order: 1) accepts the provisions of the Second Agreement as terms and conditions for continued authorization of the City Permits production limit of 230 mmg/yr, and for authorizing and continuing further increases in the City Permits production limit up to 310 mmg/yr; and 2) stays other further proceedings in this matter, until further petition or motion by one or more of the Parties. *Id.* Section II.11 of the Second Agreement provides that the Second Agreement shall be effective upon acceptance by the Director through issuance of the Order, and that the Parties and IDWR shall review the Second Agreement and Order at no less than five-year intervals to consider modification or termination. *Id.*, page 6.

Included in Exhibit A hereto, as attachments to the Second Agreement, are: 1) the 2002 Agreement with its attached monitoring and reporting plan; 2) the 2002 Order regarding the 2002 Agreement and stay of proceedings in this matter; and 3) the 2004 Order extending the stay of proceedings.

III. CONCLUSION

Pursuant to the Second Agreement and Rule 612 and for the reasons stated above, the City, joined by the other Parties, requests that the Director consider and accept the Second Agreement as a further settlement among all of the Parties, and that the Director issue the Order in the form attached as Exhibit B hereto.

DATED: August 26, 2010

PERKINS COIE LLP

By: Robert A. Maynard
Robert A. Maynard, Of the Firm

Attorneys for Petitioner City of Boise

CERTIFICATE OF SERVICE

I, the undersigned, certify that on August 26, 2010, I caused a true and correct copy of the foregoing to be forwarded with all required charges prepaid, by the method(s) indicated below, in accordance with the Rules of Procedure, to the following person(s):

Boise Warm Springs Water District
c/o Bruce Smith
Moore, Smith, Buxton & Turcke
950 W. Bannock, Ste. 520
Boise, ID 83702

Hand Delivery
U.S. Mail
Facsimile
Overnight Mail

 X

Edwards' Family LLC
c/o Dana L. Hofstetter
Hofstetter Law Office
608 West Franklin Street
Boise, ID 83702

Hand Delivery
U.S. Mail
Facsimile
Overnight Mail

 X

State of Idaho, Department of Lands
c/o Harriet Hensley
Idaho Attorney General's Office
300 N. 6th St., Ste. 103
P.O. Box 83720
Boise, ID 83720-0050

Hand Delivery
U.S. Mail
Facsimile
Overnight Mail

 X

State of Idaho, Department of Administration
c/o Edith Pacillo
Idaho Attorney General's Office
650 West State Street, Room 100
Boise, ID 83720-0003

Hand Delivery
U.S. Mail
Facsimile
Overnight Mail

 X

The Terteling Company, Inc.
c/o Charles L. Honsinger
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701-2773

Hand Delivery
U.S. Mail
Facsimile
Overnight Mail

 X

Idaho Department of Water Resources
c/o Administrator, Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

Hand Delivery
U.S. Mail
Facsimile
Overnight Mail

 X

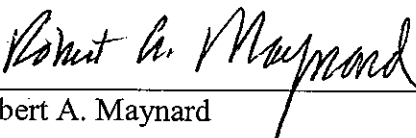

Robert A. Maynard

EXHIBIT A

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PETITION FOR
ORDER AUTHORIZING ADDITIONAL USE
UNDER EXISTING PERMITS AND
MORATORIUM ORDER FOR WATER
RIGHTS 63-9138 & 63-9139 IN THE NAME
OF THE CITY OF BOISE

**SECOND STIPULATED AGREEMENT
FOR SETTLEMENT IN PART OF
PETITION AND STAY OF FURTHER
PROCEEDINGS**

This Stipulated Agreement ("Agreement") is entered into among the undersigned Parties through their duly authorized representatives, in consideration of the promises stated in this Agreement. This Agreement is entered into for the purposes of further settlement of the relief requested by the City of Boise in its Petition filed in this matter.

The relief requested by the City Petition filed in this matter seeks Idaho Department of Water Resources ("IDWR") authorization of phased increases up to 310 million gallons per water year ("mmg/yr") in the diversion pumping production limit under City of Boise water right permits 63-9138 and 63-9139 ("City Permits") for low temperature geothermal water resource wells in the Boise Front Geothermal Resource Ground Water Management Area ("BFGMA"), in accordance with the provisions of the June 10, 1988 IDWR Order Establishing A Moratorium applicable to the BFGMA, as extended ("Moratorium Order").

In an April 14, 2009 Order, the IDWR further extended the moratorium originally established in the June 10, 1988 Moratorium Order for an additional five years, through May 5, 2014.

This Agreement incorporates by reference and attaches: 1) the July 24, 2002 Stipulated Agreement For Settlement in Part and Stay of Proceedings Regarding Remainder of Petition ("2002 Agreement") executed among the Parties; 2) the September 6, 2002 IDWR Order ("2002 Order") accepting the 2002 Agreement, authorizing based on the 2002 Agreement an increase in the production limit for use under the City Permits to 230 mmg/yr, effective October 1, 2002, and staying further proceedings in this matter regarding any

**SECOND STIPULATED AGREEMENT
FOR SETTLEMENT IN PART OF
PETITION - 1**

increase in the City Permits production limit above 230 mmg/yr; 3) the March 24, 2004 IDWR Order ("2004 Order") extending the stay of further proceedings in this matter.

The proceedings in this matter have remain stayed after completion of the Idaho Water Resources Research Institute ("IWRRI") Project described in the 2002 Agreement while the IDWR and the Parties monitored conditions and use of the low temperature geothermal water resource within the BFGMA, and while the Parties have negotiated this present Agreement.

This Agreement supplements the 2002 Agreement to cover increases in the City Permits production limit above 230 mmg/yr up to 310 mmg/yr. This Agreement modifies and supersedes the terms and conditions in the 2002 Agreement only as specifically stated and described in this Agreement.

I. Definitions and Abbreviations

The Definitions and Abbreviations in Section I of the 2002 Agreement are adopted and apply in this Agreement.

II. Terms and Conditions

1. The increase of the City Permits production limit to 230 mmg/yr is confirmed and continued according to the terms and conditions in the 2002 Agreement, without change, except the following specific terms and conditions in the 2002 Agreement are modified as described below.

a. The IWRRI Project, delivery of the Project Final Report, and related items described in Section II.D of the 2002 Agreement were completed in accordance with the terms of Section II.D of the 2002 Agreement, and have no further prospective application or effect; provided, the provisions of Section II.D.3 of the 2002 Agreement shall apply to any updates of the IWRRI Project aquifer model, as described in Section II.14 of this Agreement below.

b. A stay of proceedings in this matter shall be in effect, as described in Section II.10 of this Agreement.

c. The notice provisions of Section II.H.1 of the 2002 Agreement are updated and replaced by the provisions of Section III.1 of this Agreement.

SECOND STIPULATED AGREEMENT FOR SETTLEMENT IN PART OF PETITION - 2

- d. The effective date, modification, and termination provisions in Section II.H.8 of the 2002 Agreement are updated and replaced by the provisions in Section II.11 of this Agreement.
2. The monitoring, reporting, and enforcement of the increase of the City Permits production limit to 230 mmg/yr shall continue according to the terms and conditions in the 2002 Agreement (including the modifications to the Monitoring and Reporting Plan described in Section II.3 of this Agreement).
3. The Monitoring and Reporting Plan ("M/R Plan") described in Section II.C of the 2002 Agreement and attached as Exhibit 1 thereto is modified as follows:
 - a. Under "Reporting" in the M/R Plan, the IDWR shall prepare a single annual summary report regarding monitoring data and provide it to the Parties by February 15 of the year following the water year data that the report summarizes, rather than the semi-annual summaries described in the M/R Plan attached as Exhibit 1 to the 2002 Agreement.
 - b. The Quarry View Shallow, Quarry View Deep, and Pen Well No. 1 wells (Table 3 in the M/R Plan) are removed from the list of wells to be monitored.
 - c. For the BWS #3 well (Table 1 in the M/R plan), the "Water Level Measurement Method" shall be by electric line and the "Minimum Measurement Frequency" shall be weekly.
 - d. The M/R Plan shall remain subject to periodic review and further modification by written agreement of the Parties and such modifications will be binding upon the IDWR if accepted by the Director, as described under "Review and Modification" in Exhibit 1 to the 2002 Agreement.
4. Each calendar year, on or before February 15, IDWR shall provide a report to the Parties summarizing monitoring data for the prior water year, as described in the M/R Plan and Section II.3.a above. Each year, on or before February 15, the City shall also provide a report to the IDWR and other Parties summarizing actual City production and injection volumes for the prior two water years.

**SECOND STIPULATED AGREEMENT
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5. Each calendar year, on or before March 30, the parties shall meet with IDWR to review the reports submitted in Section II.4 above and review whether the City meets the criteria described in Section II.6 below for an increase in the City Permits production limit above 230 mmg/yr.

6. A further increase in the City Permits production limit shall be authorized if:
- a. average annual actual City production for the prior two water years exceeds 190 mmg/yr; and
 - b. IDWR determines, after review and consideration of the IDWR report and any additional information provided by any of the Parties at the meeting, that increasing the City production will not 1) deplete or otherwise adversely affect the Aquifer; 2) increase pumping lift or decrease pressure to existing prior user wells; or 3) reduce temperature to existing users causing systems operating at reasonable efficiency to no longer operate.

A determination under Section II.6.b above shall not be a final IDWR decision regarding City Permits or license production limits.

7. The amount of increase in the City production limit authorized if the criteria in Section II.6 are met shall be the lesser of:

- a. 40 mmg/yr above the average annual actual City production for the prior two water years;
- b. an increase to the production limit, listed by year as follows:

Water Year	Production Limit (mmg/yr)
2009	230
2010	240
2011	250
2012	260

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2013	270
2014	280
2015	290
2016	300
2017	310

c. the production limit determined from either a or b above shall not include any amount of water delivered from the City system to the BWSWD system via the intertie connection between the two systems, as may from time to time occur by separate agreement between the City and BWSWD for occasional emergency supply or other purposes.

8. Within 60 days after the meeting described in Section II.5 above, IDWR shall issue its determination in writing regarding whether a further increase in the City Permits production limit meets the criteria in Section II.6 and therefore is authorized, and the amount of the increase in accordance with Section II.7.

9. The terms and conditions in the 2002 Agreement that continue to apply to the increase to 230 mmg/yr also apply to any increases above 230 mmg/yr, including, without limitation:

- a. The injection requirement in Section II.B of the 2002 Agreement;
- b. Provision for subsequent IDWR review and remedial action and reservation of rights in Section II.F of the 2002 Agreement.

A determination by IDWR under Section II.8 of this Agreement shall not affect the Parties' remedies and reservations of rights in Section II.F of the 2002 Agreement which are incorporated by reference in this Agreement as if set forth in full.

10. The City shall file a motion in this matter, in which the other Parties shall join, requesting acceptance of this Agreement and issuance by the Director of an interim order ("Order") in the form attached hereto as Exhibit 1 ("Order") that: 1) accepts the provisions of

**SECOND STIPULATED AGREEMENT
FOR SETTLEMENT IN PART OF
PETITION - 5**

this Agreement as terms and conditions for continued authorization of the City Permits production limit of 230 mmg/yr, and for authorizing and continuing further increases in the City Permits production limit up to 310 mmg/yr; and 2) stays other further proceedings in this matter, until further petition or motion by one or more of the Parties. Except as provided in Section II.F of the 2002 Agreement, no Party shall file or pursue any objection, petition, appeal, or suit challenging or seeking reconsideration of said Order.

11. This Agreement shall be effective upon acceptance by the Director through issuance of the Order described in Section II.10 above. The parties and IDWR shall review the Agreement and Order at no less than five-year intervals to consider modification or termination.

- a. Modification or termination shall be effective only upon written agreement signed by each of the Parties hereto and issuance of a subsequent order by IDWR accepting or incorporating such modification or termination.
- b. Modification or termination will not terminate prior increases in the City Permits production limit except in accordance with the remedial and reservation of rights provisions in section II.F of the 2002 Agreement which are incorporated by reference in this Agreement as if set forth in full.
- c. This Agreement does not preclude the City Permit production from being increased beyond 310 mmg/yr after Water Year 2017, through modification of this Agreement, separate agreement, or other lawful procedure or action.
- d. The City shall provide written notice to each of the other Parties hereto 30 days in advance of submitting a request to IDWR to issue a license for either of the City Permits.

**SECOND STIPULATED AGREEMENT
FOR SETTLEMENT IN PART OF
PETITION - 6**

12. Attachment A to this Agreement is a contingency plan containing potential further mitigation measures for any potential impacts of an increase in the City production above 230 mmg/yr, in the event that mitigation beyond the injection and other requirements of the 2002 Agreement becomes necessary or appropriate. The City may update this plan periodically and shall provide a copy of any City-approved update to the other Parties.

13. At the request of any of the Parties, the Parties shall review the IWRRI Project aquifer model and available monitoring and other information to determine whether recalibration or other updating of the model is necessary or appropriate. Such review shall not be required at greater frequency than one year.

14. The cost of any recalibration or other updating of the model that the Parties upon review agree is necessary or appropriate under Section II.13 shall be paid by the Parties, unless the updating is at the request of or needed to address increased production proposed or undertaken by a third party. Each Party shall at their own expense provide reasonable access to geothermal wells, make available existing geothermal well data, and make available a representative to assist in recalibration or other updating of the model as described in Section II.D.3. of the 2002 Agreement. It is anticipated the City would pay up to 80%, and the other producing parties would pay 5% each of any further cost of a recalibration or other updating of the model that is not borne by a third party. However, the parties may otherwise agree upon a different sharing of costs of such recalibration or other updating of the model.

III. Miscellaneous Provisions

1. Any notice required under this Agreement shall be mailed to the following:

Boise Warm Springs Water District
c/o Bruce Smith
Moore, Smith, Buxton & Turcke
950 W. Bannock, Ste. 520
Boise, ID 83702

City of Boise
City Engineer
Public Works Department
City Hall, 150 North Capitol Blvd.
P.O. Box 500
Boise, ID 83701-0500

**SECOND STIPULATED AGREEMENT
FOR SETTLEMENT IN PART OF
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Edwards Family LLC
c/o Dana Hofstetter
Hofstetter Law Office
608 West Franklin Street
Boise, ID 83702

The Terteling Company, Inc.
c/o Charles L. Honsinger
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701-2773

State of Idaho, Department of Administration
c/o Edith Pacillo
Idaho Attorney General's Office
650 W. State St., Room 100
P.O. Box 83720
Boise, ID 83720-0003

State of Idaho, Department of Lands
c/o Harriet Hensley
Idaho Attorney General's Office
300 N. 6th St., Ste. 103
P.O. Box 83720
Boise, ID 83720-0050

State of Idaho, Department of Water Resources
c/o Administrator, Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

2. This Agreement shall bind and inure to the benefit of the respective successors and assigns of the Parties.

3. This Agreement sets forth all of the covenants, promises, provisions, agreements, conditions, and understandings between the Parties and there are no covenants, provisions, promises, agreements, conditions, or understandings, either oral or written, between them other than are herein set forth.

4. This Agreement does not alter or supersede any rights or obligations in any other existing agreement between two or more Parties, as between those Parties.

5. The Parties shall undertake best efforts to secure any reviews and/or approvals and to fully cooperate in the preparation and execution of any documents that are necessary to effectuate the performance of the terms and conditions of this Agreement.

6. This Agreement represents a settlement of disputed issues reached as a result of good faith negotiations regarding the City Petition in this proceeding. This Agreement shall not be construed so as to waive or prejudice any contention or right by any Party except for purposes of effectuating this Agreement. No offers and/or compromises made in the

**SECOND STIPULATED AGREEMENT
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PETITION - 8**

course of negotiations shall be construed as admissions against interest or be used in any legal proceeding.

7. This Agreement shall 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, including but not limited to any lack of availability due to cuts, returns, "hold-back" or "give-back" of funds mandated by the Legislature or Governor of the State of Idaho.

8. A failure to enforce any provision of this Agreement by any Party in no way implies a waiver of any Party's right to insist upon strict performance or enforce the same or other provisions of this Agreement in the future.

9. This Agreement may be executed in counterparts by the Parties and such counterparts, once executed, shall together constitute one final agreement binding the Parties to this Agreement as if one document had been signed by all Parties.

Dated: August 25, 2010

PERKINS COIE LLP

By: Robert A. Maynard
Robert A. Maynard
Attorney for Petitioner City of Boise

Dated: 7/27/2010

MOORE, SMITH BUXTON & TURCKE

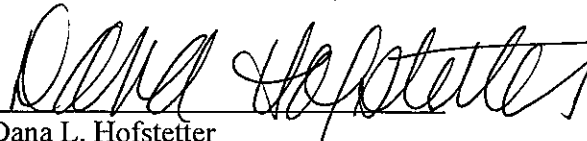
By: Bruce M. Smith
Bruce M. Smith
Attorney for Boise Warm Springs Water District

**SECOND STIPULATED AGREEMENT
FOR SETTLEMENT IN PART OF
PETITION - 9**

[31699-0002/LEGAL16650432.1

Dated: August 19, 2010

HOFSTETTER LAW OFFICE

By: 
Dana L. Hofstetter
Attorney for Edwards Family LLC

Dated: _____

**STATE OF IDAHO, DEPARTMENT OF
ADMINISTRATION**

By: _____
Melissa Vandenberg
Deputy Attorney General, State of Idaho

Dated: _____

**STATE OF IDAHO, DEPARTMENT OF
LANDS**

By: _____
Harriet A. Hensley
Deputy Attorney General, State of Idaho

Dated: _____

RINGERT CLARK, CHARTERED

By: _____
Charles L. Honsinger
Attorney for the Terteling Company, Inc.

**SECOND STIPULATED AGREEMENT
FOR SETTLEMENT IN PART OF
PETITION - 10**

[31699-0002/LEGAL16650432.1

Dated: _____

HOFSTETTER LAW OFFICE

By: _____
Dana L. Hofstetter
Attorney for Edwards Family LLC

Dated: July 22, 2010

**STATE OF IDAHO, DEPARTMENT OF
ADMINISTRATION**

By: Melissa Vandenberg
Melissa Vandenberg
Deputy Attorney General, State of Idaho

Dated: _____

**STATE OF IDAHO, DEPARTMENT OF
LANDS**

By: _____
Harriet A. Hensley
Deputy Attorney General, State of Idaho

Dated: _____

RINGERT CLARK, CHARTERED

By: _____
Charles L. Honsinger
Attorney for the Terteling Company, Inc.

**SECOND STIPULATED AGREEMENT
FOR SETTLEMENT IN PART OF
PETITION - 10**

[31699-0002/LEGAL16650432.1

Dated: _____

HOFSTETTER LAW OFFICE

By: _____
Dana L. Hofstetter
Attorney for Edwards Family LLC

Dated: _____

**STATE OF IDAHO, DEPARTMENT OF
ADMINISTRATION**

By: _____
Melissa Vandenberg
Deputy Attorney General, State of Idaho

Dated: 07/27/2010

**STATE OF IDAHO, DEPARTMENT OF
LANDS**

By: Harriet A. Hensley
Harriet A. Hensley
Deputy Attorney General, State of Idaho

Dated: _____

RINGERT CLARK, CHARTERED

By: _____
Charles L. Honsinger
Attorney for the Terteling Company, Inc.

**SECOND STIPULATED AGREEMENT
FOR SETTLEMENT IN PART OF
PETITION - 10**

[31699-0002/LEGAL16650432.1

Dated: _____

HOFSTETTER LAW OFFICE

By: _____
Dana L. Hofstetter
Attorney for Edwards Family LLC

Dated: _____

**STATE OF IDAHO, DEPARTMENT OF
ADMINISTRATION**

By: _____
Melissa Vandenberg
Deputy Attorney General, State of Idaho

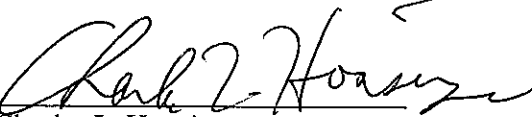
Dated: _____

**STATE OF IDAHO, DEPARTMENT OF
LANDS**

By: _____
Harriet A. Hensley
Deputy Attorney General, State of Idaho

Dated: 08/03/10

RINGERT CLARK, CHARTERED

By: 
Charles L. Honsinger
Attorney for the Terteling Company, Inc.

**SECOND STIPULATED AGREEMENT
FOR SETTLEMENT IN PART OF
PETITION - 10**

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ATTACHMENT A

MITIGATION PLAN BOISE CITY GEOTHERMAL SYSTEM POSSIBLE ACTIONS TO REDUCE PRODUCTION VOLUME April 2010

Introduction:

An amendment to the Stipulated Agreement has been developed that will allow, after an annual review of the condition of the aquifer, a modest increase in the City of Boise's production ceiling to meet the demand for additional geothermal service. This amendment would provide for the City's production ceiling to increase from 230 to 310 MMGY.

Although modeling of the aquifer in 2003 showed the geothermal aquifer had the capacity for the City to double its production (with commensurate re-injection) and not adversely affect other users, there is concern aquifer capacity issues may not manifest themselves for several years. It is possible that in the future steps may need to be taken to reduce the City's production ceiling after it has been increased.

The mitigation plan describes some of the actions that could be taken by the City to reduce the amount of water pumped from the geothermal aquifer if it became necessary to mitigate increased pumping levels.

Mitigation Actions:

The City has identified three categories of mitigation actions that could be taken in case the Boise Front Geothermal Aquifer showed signs of faltering under increased production. Following is a description of the actions that could be taken and an estimate on the reduction on the annual production each action could achieve. It is also expected the mitigation actions would be taken in the order they are presented due to ease and cost of implementation.

Stop Service to Interruptible Customers

The geothermal service agreement (currently being routed for signature) with Boise State University (BSU) calls for their buildings to be considered Interruptible Customers of the CITY geothermal heating system which will provide the right of the CITY to restrict or interrupt any or all of the geothermal flow to the BSU buildings due to aquifer concerns, legal actions, permit limitations or other reasons as necessary to properly operate the CITY geothermal system. BSU has agreed to install alternative non-geothermal heating systems in each of the BSU buildings to be served under this agreement.

With BSU eventually becoming the single largest customer served by the Boise City geothermal system, but receiving service with the understanding from the beginning that their service could be interrupted if there are aquifer problems, the

ATTACHMENT A

City has a single large customer whose service could be reduced or terminated. BSU will receive a reduced rate for geothermal service as an interruptible customer.

The current projection is the first six BSU buildings to be connected with the current funding will use 31 MMGY. Additional BSU buildings would also be connected as interruptible customers.

City Facilities

There are several City operated buildings on the system which have backup heating systems. Since the operation of these buildings is under City control the City could internally make the decision to discontinue use of geothermal water in these buildings.

City owned buildings currently use about 4 MMGY.

Customers w/ Backup Sources of Heat

Fifteen buildings on the City geothermal system have backup heating systems. These individual building owners could be approached to voluntarily operate their backup heating sources, possibly with the Geothermal Fund paying the incremental cost of using their backup source of heating. This would be a bit more cumbersome than working with a single owner such as BSU or the City, so is not ranked as the first action taken.

The fifteen buildings with backup heat sources use about 85 MMGY.

In combination these mitigation actions have the potential to reduce the annual production for the Boise geothermal system by 120 MMGY.

EXHIBIT 1

**BEFORE THE DEPARTMENT OF WATER RESOURCES
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OF THE CITY OF BOISE

**ORDER ACCEPTING SETTLEMENT
IN PART AND STAY OF FURTHER
PROCEEDINGS**

This matter having come before the Idaho Department of Water Resources ("Department") as a result of Protests filed against the referenced Petition; the Department having previously issued a September 6, 2002 Order accepting a July 24, 2002 agreement for settlement in part and stay of further proceedings in this matter; the Department having issued a March 24, 2004 Order extending the stay of further proceedings; and each of the Parties to this Matter having reached, and submitted on [DATE], for acceptance by the Department, a [DATE] agreement ("Agreement") for settlement in part and a further stay of proceedings regarding the relief requested in the Petition, the Department makes the following Order:

ORDER

IT IS HEREBY ORDERED that:

1. The Department accepts the Agreement, which is attached to this Order for reference, as a settlement among each of the parties to this contested matter;
2. Further proceedings in this matter are stayed until further petition or motion by one or more of the parties;
3. The Department shall enforce the terms of the Agreement, to the extent of and in accordance with the Department's authority and the provisions of the Agreement.

**ORDER ACCEPTING SETTLEMENT IN
PART AND STAY OF FURTHER
PROCEEDINGS - 1**

EXHIBIT 1

Dated this _____ day of _____, 2010.

Director

By: _____

**ORDER ACCEPTING SETTLEMENT IN
PART AND STAY OF FURTHER
PROCEEDINGS - 2**

[31699-0002/

RECEIVED

SEP 09 2002

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

PERKINS COI LLP - BOISE

XTR

**IN THE MATTER OF PETITION FOR
ORDER AUTHORIZING ADDITIONAL
USE UNDER EXISTING PERMITS AND
MORATORIUM ORDER FOR WATER
RIGHTS 63-9138 & 63-9139 IN THE
NAME OF THE CITY OF BOISE**

**ORDER ACCEPTING SETTLEMENT
IN PART AND STAY OF PROCEEDINGS
REGARDING REMAINDER OF
PETITION**

This matter having come before the Idaho Department of Water Resources ("Department") as a result of Protests filed against the referenced Petition, and each of the Parties to this matter having reached, and submitted on August 14, 2002, for acceptance by the Department a July 24, 2002, agreement ("Agreement") for settlement in part and stay of proceedings regarding the remainder of the relief requested in the Petition, the Department makes the following Order:

ORDER

IT IS THEREFORE HEREBY ORDERED that:

1. The Department accepts the Agreement, which is attached to this Order for reference, as a settlement among each of the Parties to this contested matter;
2. Based on the Agreement, the Department authorizes an increase in the production limit (diversion pumping) for use under water right permits 63-9138 and 63-9139 in the name of the City of Boise to 230 million gallons per water year (October 1 to September 30), effective October 1, 2002;
3. Further proceedings in this matter are stayed regarding any increase in the City Permits production limit above 230 million gallons per water year until at least 60 days after

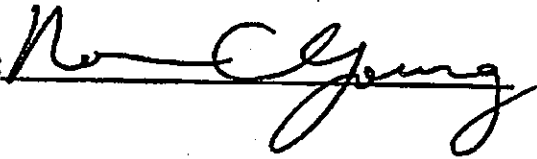
**ORDER ACCEPTING SETTLEMENT IN PART AND STAY OF PROCEEDINGS REGARDING REMAINDER
OF PETITION - 1**

completion of the Idaho Water Resources Research Institute ("IWRRI") Project as described in the Agreement; and

4. The Department shall enforce the terms of the Agreement, including the Monitoring and Reporting Plan attached as Exhibit 1 thereto, to the extent of and in accordance with the Department's authority and the provisions of the Agreement.

DATED this 6TH day of September, 2002.

Karl J. Dreher, Director

By: 

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of September, 2002, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

**ROBERT A MAYNARD
PERKINS COIE LLP
251 E FRONT ST STE 400
BOISE ID 83702**

**IDAHO DEPT OF ADMINISTRATION
C/O JOANNA L GUILFOY
PO BOX 83720
BOISE ID 83720-0002**

**BRUCE SMITH
MOORE SMITH BUXTON & TURCKE
225 N 9TH ST STE 420
BOISE ID 83702**

**HARRIET HENSLEY
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010**

**CHARLES L HONSINGER
RINGERT CLARK CHARTERED
PO BOX 2773
BOISE ID 83701-2773**

**DANA HOFSTETTER
HOFSTETTER LAW OFFICE
808 W FRANKLIN
BOISE ID 83702**


**Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau**

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF PETITION FOR
ORDER AUTHORIZING ADDITIONAL USE
UNDER EXISTING PERMITS AND
MORATORIUM ORDER FOR WATER
RIGHTS 63-9138 & 63-9139 IN THE NAME
OF THE CITY OF BOISE**

**STIPULATED AGREEMENT FOR
SETTLEMENT IN PART AND STAY
OF PROCEEDINGS REGARDING
REMAINDER OF PETITION**

This Stipulated Agreement (Agreement) is entered into among the undersigned Parties through their duly authorized representatives, in consideration of the promises stated in this Agreement. This Agreement is entered into for the purpose of settlement in part and stay of proceedings regarding the remainder of the relief requested by the City of Boise in its Petition filed in this matter.

More specifically, this Agreement provides the basis for the Idaho Department of Water Resources to issue an order that: 1) authorizes increase of the production limit under the City of Boise Water Permit Nos. 63-9138 and 63-9139 to 230 million gallons per water year, effective October 1, 2002, in accordance with the other terms and conditions in this Agreement; and 2) stays further proceedings in this matter regarding the remainder of the production limit increase requested by the City in its Petition.

I. Definitions and Abbreviations

"Aquifer" is the underground formation or formations containing low temperature geothermal ground water within the BFGMA.

"BFGMA" is the Boise Front Low Temperature Geothermal Resource Ground Water Management Area.

"BLM Well" is the existing monitoring well located in the former Bureau of Land Management yard (now USGS) in proximity to City, Department of Administration, and VA production wells within the BFGMA.

"BWSWD" is the Boise Warm Springs Water District.

"City" is the City of Boise.

"City Permits" are existing IDWR water right permits numbered 63-9138 and 63-9139.

"Department of Administration" is the State of Idaho, Department of Administration acting through its Division of Public Works.

"Department of Lands" is the State of Idaho, Department of Lands.

"Director" is the Director, IDWR.

"Edwards" is Edwards Family LLC.

"Harris" is Dallas Harris, acting through his sole representative, Felicia Burkhalter.

"Injection" is return pumping or flow of Aquifer water into the ground through an injection well.

"IDWR" is the State of Idaho, Department of Water Resources.

"IWRRI" is the Idaho Water Resources Research Institute, University of Idaho

"IWRRI Project" is the IWRRI research project entitled "Hydrogeologic Framework Refinement and Simulation of Hydraulic Head and Temperature in the Boise Geothermal Aquifer."

"Moratorium Order" is the June 10, 1988 order issued by IDWR establishing a moratorium regarding the BFGMA, as extended.

"mmg" is million gallons.

"mmg/yr" is million gallons per water year.

"Party" (pl. "Parties") is an undersigned party to this Agreement.

"Production" is diversion pumping or withdrawal of water from the Aquifer, measured at a production or supply well.

"Terteling" is the Terteling Company, Inc.

"USGS" is the United States Geological Survey.

"VA" is the United States Veterans Administration.

"Water year" is a geothermal heat use water year, October 1 to September 30.

II. Terms and Conditions

The Parties agree as follows:

A. Increase In City Production Limit To 230 mmg/yr

The Parties shall not object to an increase in the limit on production through the City production wells under the City Permits to 230 mmg/yr, effective October 1, 2002, in accordance with the other terms and conditions in this Agreement. Each Party acknowledges that an increase in City Permits production to 230 mmg/yr can occur under the terms and conditions in this Agreement.

B. Injection Requirement

As a specific condition of the above increase in the City Permits production limit under this Agreement, production under the City Permits shall not exceed City injection by more than an average of 30 mmg/yr for any five year period, and production shall not exceed injection by more than 50 mmg/yr in any single year. *Provided*, production may exceed injection by more than 50 mmg/yr in any single year only to the extent required due to catastrophic system failure, acts of God, war, fire, flood, other natural disaster, or other emergency circumstances. In such circumstances, the City must re-attain a rate of injection of all production in excess of 30 mmg/yr as soon as feasible.

C. Monitoring; Data Collection and Reporting

1. Each Party shall comply with the Monitoring and Reporting Plan attached hereto as Exhibit 1 and incorporated as part of the terms and conditions of this Agreement. All data reported under the Plan shall remain subject to review and evaluation by IDWR and any Party regarding any conclusions to be drawn therefrom. The Plan shall be reviewed five years after the effective date of this Agreement to determine whether monitoring and reporting under the Plan should be continued. The data collection and reporting requirements herein are not in lieu of any additional collection and reporting required by IDWR.

2. The Parties expressly agree that the Director of IDWR may enforce the requirements of the Monitoring and Reporting Plan pursuant to existing authority, including but not limited to that contained in I.C. § 42-701, and particularly as specified in this paragraph. Upon a Party's failure to report data as specified in the Plan, the Director shall promptly notify the Party of its failure to report. The Director in his discretion may assess a civil penalty upon such Party of \$50 for each day after the Party's receipt of the notice of

failure to report until the data is submitted to IDWR. Upon a Party's intentional failure to monitor as required by the Plan (unless the Parties previously agree otherwise in writing), the Director may, upon good cause, assess a civil penalty upon that Party between \$500 and \$1000, the determination of the amount to be at the Director's discretion. The Director's determination of the amount shall include an analysis of the severity of the failure to monitor, a consideration of whether the Party has repeatedly failed to monitor, and a consideration of relevant mitigating circumstances. Each Party reserves the right to challenge the assessment of any penalty. The IDWR shall notify all Parties of any action taken by the Director pursuant to the terms of this paragraph. This paragraph shall in no way limit the Director's enforcement or other authority.

D. IWRRI Project Participation

1. The City shall fund the local share of the IWRRI Project up to the limits specified in and otherwise in accordance with the Cooperative Agreement between the City and IWRRI executed by the City on June 25, 2002 ("City/IWRRI Cooperative Agreement").
2. The Department of Administration shall exert reasonable best efforts to contribute up to \$10,000 in funds for the local share of the IWRRI Project, to the extent more than \$60,000 in local share is required to complete the Project in accordance with the Statement of Work in Exhibit A to the City/IWRRI Cooperative Agreement ("Statement of Work").
3. Each Party shall at their own expense:
 - a. Provide reasonable access to geothermal wells and make available existing geothermal well data within the Party's possession or control to the IWRRI for purposes of the Project.
 - b. Make available a representative to assist upon request from IWRRI with reasonable monitoring or other data collection and reporting at geothermal wells within the possession and control of the Party, and reasonable attendance at meetings and review/critique of documents for purposes of the Project. *Provided*, each Party shall not be required to bear the expense of services performed by a consultant or contractor for which payment to the consultant is provided for in the budget in Exhibit B to the City/IWRRI Cooperative

Agreement or additions to that budget agreed to by the City, IWRRI, and (to the extent that the Department of Administration provides funding) the Department of Administration.

4. Within five (5) business days of receipt by the City, the City shall deliver or assure that IWRRI delivers a copy to each of the other Parties of each of the following documents: As listed in Section 4 ("Deliverables") of the Statement of Work, 1) Interim Hydrogeologic Framework; 2) quarterly progress reports; 3) final modeling/project/Hydrogeologic Framework report(s) ("Final Report"); and 4) minutes of meetings of the Technical Advisory Committee described in the Statement of Work.

E. Stay of Proceedings Regarding Further Increases in City Production Limit

1. The City shall not seek from IDWR any increase in the City Permits production limit beyond 230 mmg/yr until at least 60 days after completion of the IWRRI Project. The City shall exert reasonable best efforts to meet and consult with each of the other Parties after completion of the IWRRI Project and prior to seeking such increase from IDWR.

2. Each Party agrees to a stay of proceedings in this matter regarding any increase in the City Permits production limit above 230 mmg/yr until 60 days after completion of the IWRRI Project.

3. For purposes of this Agreement, the IWRRI Project shall be deemed completed upon delivery to the City of the IWRRI Project Final Report or termination or cancellation of the Project contract between IWRRI and the Department of Energy, whichever is earlier. *Provided*, the Project shall under no circumstances be deemed to be completed earlier than June 1, 2003 based on contract termination or cancellation.

4. All IWRRI Project modeling, reports, results and other aspects of the Project remain subject to review and evaluation by IDWR and any Party regarding any conclusions to be drawn therefrom. This Agreement and any Party's participation in or support for the IWRRI Project shall not be construed as binding any Party to IWRRI Project modeling, its reports, results or other aspects of the IWRRI Project in any legal proceeding. This Agreement and any such participation or support shall not be construed as an admission or agreement by any Party that the IWRRI Project will provide sufficient data or analysis for granting or denying authorizations for increases in the City Permits production limit.

F. Notice of Potential Injury; Remedial Action; Reservation of Rights

1. Each Party shall promptly notify in writing the other Parties of well data or other information in the Party's possession that the Party believes indicates injury or threat of injury to the Party's water rights or the Aquifer.

2. The increase in the City Permits production limit to 230 mmg/yr under this Agreement shall remain subject to subsequent review and action by IDWR in this proceeding based on continued monitoring and evaluation of data collected and reported under this Agreement and other available information. The City acknowledges that any party may, in addition to other rights, petition IDWR for and IDWR may take action within its authority, including but not limited to ordering a decrease in the City Permits production limit, to remedy 1) depletion or other adverse effects on the Aquifer; 2) increased pumping lift or decreased pressure in an existing prior user well; or 3) temperature decline causing an existing user system operating at reasonable efficiency to no longer operate. The increase in the City Permits production limit to 230 mmg/yr under this Agreement shall not be a basis for the City to object to such action. Each Party otherwise reserves any rights and remedies it has with respect to such IDWR action.

3. Each Party besides the City expressly reserves, without prejudice to any other rights or remedies of the Party, the Party's respective rights to challenge the City Permits production limit, production, or other actions based on violation of Idaho law, injury to the Party's water rights or uses, ability to serve customers, or the Aquifer. Except as specified in Section F.2, the City expressly reserves, without prejudice to any other City rights and remedies, any and all defenses and other rights in any such challenge.

G. IDWR Acceptance of Agreement and Issuance of Implementing Order

1. The City shall file a motion in this matter, in which the other Parties shall join, requesting acceptance of this Agreement and issuance by the Director of an order in the form attached hereto as Exhibit 2 ("Order") that: 1) authorizes an increase in the City Permits production limit to 230 mmg/yr, effective October 1, 2002; 2) stays further proceedings in this matter regarding any increase in the production limit above 230 mmg/yr until at least 60 days after completion of the IWRRI Project; and 3) accepts the other provisions of this Agreement as terms and conditions for authorizing and continuing the increase in production

limit and stay of proceedings. Except as provided in Section II.F of this Agreement, no Party shall file or pursue any objection, petition, appeal, or suit challenging or seeking reconsideration of said Order until at least 60 days after completion of the IWRRI Project.

2. Noncompliance with this Agreement or the Order by any Party besides the City shall not be a basis for any Party to seek reduction in the City Permits production limit or other action against the City.

H. Miscellaneous Provisions

1. Any notice required under this Agreement shall be mailed to the following:

Boise Warm Springs Water District
c/o Bruce Smith
Moore, Smith, Buxton & Turcke
225 N. Ninth Street Ste. 420
Boise, ID 83702

City of Boise
City Engineer
Public Works Department
City Hall, 150 North Capitol Boulevard
P.O. Box 500
Boise, ID 83701-0500

Edwards Family LLC
c/o Dana L. Hofstetter
Hofstetter Law Office
608 West Franklin Street
Boise, ID 83702

The Terteling Company, Inc.
c/o Charles L. Honsinger
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701-2773

State of Idaho, Department of Administration
c/o Joanna L. Guilfooy
650 West State Street, Room 100
Boise, ID 83720-0003

State of Idaho, Department of Lands
c/o Harriet Hensley
Idaho Attorney General's Office
210 Statehouse
P.O. Box 83720
Boise, ID 83720-0010

State of Idaho, Department of Water
Resources
c/o Administrator, Water Resources
1301 North Orchard Street
Boise, ID 83720

2. This Agreement shall bind and inure to the benefit of the respective successors and assigns of the Parties.

3. This Agreement sets forth all of the covenants, promises, provisions, agreements, conditions, and understandings between the Parties and there are no covenants,

provisions, promises, agreements, conditions, or understandings, either oral or written between them other than are herein set forth.

4. This Agreement does not alter or supersede any rights or obligations in any other existing agreement between two or more Parties, as between those Parties.

5. The Parties shall undertake best efforts to secure any reviews and/or approvals and to fully cooperate in the preparation and execution of any documents that are necessary to effectuate the performance of the terms and conditions of this Agreement.

6. This Agreement represents a settlement of disputed issues reached as a result of good faith negotiations regarding the City Petition in this proceeding. This Agreement shall not be construed so as to waive or prejudice any contention or right by any Party except for purposes of effectuating this Agreement. No offers and/or compromises made in the course of negotiations shall be construed as admissions against interest or be used in any legal proceeding.

7. This Agreement shall 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.

8. This Agreement shall be effective upon acceptance by the Director through his issuance of an Order in the form attached hereto. This Agreement may be terminated or modified, but only by means of a written agreement signed by each of the Parties hereto. No termination or modification shall be binding upon IDWR unless accepted by the Director.

9. This Agreement may be executed in counterparts by the Parties and such counterparts, once executed, shall together constitute one final agreement binding the Parties to this Agreement as if one document had been signed by all Parties.

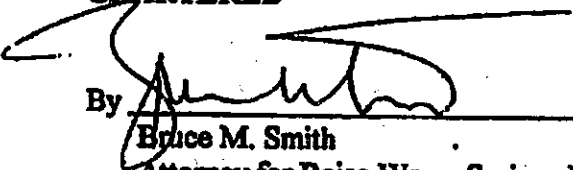
Dated: 7/24/02

PERKINS COIE LLP

By Robert A. Maynard
Robert A. Maynard
Attorney for Petitioner City of Boise

Dated: 7/24/02

**MOORE SMITH BUXTON & TURKE,
CHARTERED**

By 

Bruce M. Smith

Attorney for Boise Warm Springs Water
District

Dated: 7/24/02

HOFSTETTER LAW OFFICE

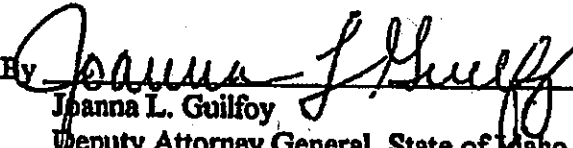
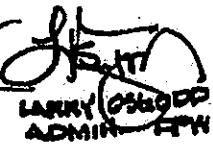
By 

Dana L. Hofstetter

Attorney for Edwards Family LLC

Dated: 7/24/02

**STATE OF IDAHO, DEPARTMENT OF
ADMINISTRATION**

By  

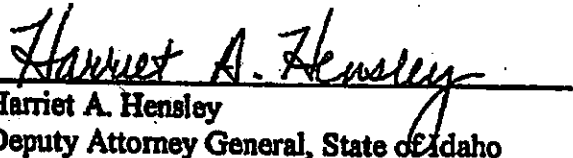
Joanna L. Guilfoyle

Deputy Attorney General, State of Idaho

LARRY O'SHANNON
ADMINISTRATIVE

Dated: 07/24/02

**STATE OF IDAHO, DEPARTMENT OF
LANDS**

By 

Harriet A. Hensley

Deputy Attorney General, State of Idaho

Dated: 07/24/02

RINGERT CLARK, CHARTERED

By Charles L. Honsinger

Charles L. Honsinger
Attorney for The Terteling Company, Inc.

EXHIBIT 1

BOISE FRONT GEOTHERMAL AQUIFER MONITORING AND REPORTING PLAN

Designated Long-Term Observation Well Monitoring. Commencing on the later of August 15, 2002 or the effective date of this Plan, water level/wellhead pressure data shall be collected at least weekly and reported at least quarterly to IDWR for the wells listed on Table 1 for purposes of this Agreement. The Party designated in the table as responsible for each well shall complete the collection and reporting of data for that well at the Party's own expense. For the wells listed in Table 1 that are equipped with pressure transducers and data loggers, manual measurements (steel tape, electric line, or pressure gage) shall be collected at least weekly during the months of September and February for verification purposes. Transducer/data loggers shall be downloaded semiannually in June and December.

Production and Injection Well Monitoring. Commencing on the later of August 15, 2002 or the effective date of this Plan, each Party shall at its own expense collect at least weekly and report at least quarterly to IDWR (1) the production (instantaneous and totalized flow) and discharge temperature data for the geothermal production wells operated by the Party and (2) injection volume (instantaneous and totalized flow) and injection temperature in any injection well operated by the Party within the BFGMA (Boise Front Groundwater Management Area). These wells are listed in Table 2. Each Party shall also collect water level/well head pressure from their respective production and injection wells on a weekly basis during the following 6-week periods: September 1 through October 12 and February 1 through March 14. For purposes of this Agreement, the City shall collect and report production and discharge temperature data for its existing production wells at the City Well House No. 2 and water level/pressure data for its existing production wells at each of the three City production wells.

Secondary Observation Well Monitoring. Additional wells to be monitored for water levels are listed in Table 3. Data from this monitoring may be useful for aquifer modeling purposes or other studies.

BLM, Harris, Quail Hollow, and VA Wells. The parties shall reasonably cooperate with each other and with the IDWR to assure that BLM, Harris Warm Springs Creek (Harris), Quail Hollow Golf Course (Quail Hollow), and VA well data continues to be collected and reported to IDWR and is available to each of the Parties. These non-party wells are listed in Table 4. The IDWR shall to the extent of its authority require the following: VA and Quail Hollow shall collect water level/well head pressure, production (instantaneous and totalized flow), and discharge temperature data for their respective geothermal production wells. The VA shall collect wellhead pressure,

EXHIBIT 1

injection volume (instantaneous and totalized flow), and injection temperature in the VA injection well. Production and temperature data shall be collected at least monthly. VA and Quail Hollow shall collect water level/well head pressure from their respective wells on a weekly basis during the following 6-week periods: September 1 through October 12 and February 1 through March 14. BLM water levels shall be measured at least weekly on a year-around basis. Harris well monitoring and reporting shall be as provided in the March 29, 2002 Stipulated Agreement for Withdrawal of Harris Protest regarding the City Petition in this matter.

Calibration. The IDWR or another entity agreed upon by the Parties shall annually visit each well listed in Tables 1-4 over which a Party has possession or control or to which access is otherwise permitted for purposes of calibration checks of monitoring equipment. The calibration will include (1) comparison measurements of pressure (calibrated gages versus well gage and/or transducer) and (2) calibration checks of flow meters using the IDWR ultrasonic flow meter or other means.

Reporting. The Parties shall submit data to IDWR on a quarterly basis. The Parties shall submit data on a standard form if such a form is provided by IDWR. Each Party shall submit data to IDWR within 30 days after the end of each quarter. Upon the end of each quarter, IDWR shall notify each Party of the due date for submitting data. For this purpose, the end of each quarter shall be December 31, March 31, June 30, and September 30 of each year. The IDWR shall prepare semi-annual summaries of monitoring data within 60 days of the end of each six-month monitoring period and provide the summaries to the Parties. For this purpose, six-month monitoring periods shall be January 1 through June 30 and July 1 through December 31. The IDWR shall also provide data in response to requests by any Party on a case-by-case basis. The IDWR shall promptly notify Parties who fail to report their data by the due date following each quarter, and such Parties shall be subject to IDWR assessing civil penalties for failure to report in accordance with IDWR authority. All Parties shall be copied on such notices and assessments of civil penalties.

Monitoring Methodology. Each Party shall prepare a detailed description of monitoring methods for the Party's own wells by the later of August 15, 2002 or the effective date of this Plan. These descriptions shall be attached to this plan as Appendices A through F. Each appendix will include the following information. A field trip to each well site for interested Parties is recommended to obtain standardized photographs and vertically accurate GPS measurements.

1. identification of monitored wells
2. reference point descriptions for water level measurements (with photographs)

EXHIBIT 1

3. reference point elevation (GPS) National Geodetic Vertical Datum, 1929 ("NGVD 29")
4. description of measuring equipment (including model numbers, serial numbers and calibration information for flow meters)
5. name, address, and telephone number for individual responsible for submitting monitoring data
6. remarks regarding monitoring methods or protocol
7. All well heads where pressure measurements are taken shall be equipped with quality 0-50 psi double- pressure gage clusters with isolation valves.
8. Water level sounding tubes shall be installed as appropriate when pumps are pulled for servicing.

Effective Date: This Plan shall be effective upon acceptance by the Director of IDWR.

Review and Modification. This plan shall be subject to periodic review and modification. This plan may be modified only by means of a written agreement signed by each of the Parties. A modification shall not be binding upon IDWR unless accepted by the Director.

TABLE 1 - PRIMARY OBSERVATION WELLS

Well Name	Ownership	Monitoring Responsibility	Water Level Measurement Method	Minimum Measurement Frequency	Remarks
Kerr	State IDL	City	Transducer/data logger	Continuous	City to purchase transducer; State to provide access
BWS2/3	BWS	BWS	Transducer/data logger	Continuous	
BGL1	City	City	Transducer/data logger	Continuous	Measure static pressure
Edwards	Edwards	Edwards	Pressure Gauge	Weekly	
Tapp	Tenneco	Tenneco	Transducer/data logger	Continuous	City to purchase transducer; well available following transfer approval

TABLE 2 - PARTY PRODUCTION AND INJECTION WELLS

Well Name	Ownership	Monitoring Responsibility	Water Level Measurement Method	Minimum Measurement Frequency	Remarks
Edwards	Edwards	Edwards	Pressure Gauge	Weekly	Measure static water level or pumping water level, flow rate, totalizer reading, temp.
City Injection	City	City	Transducer/data logger	Continuous	
BGL2	City	City	Electric Line	Weekly	Measure static water level or pumping water level, flow rate, totalizer reading, temp.
BGL3	City	City	Electric Line	Weekly	Measure static water level or pumping water level, flow rate, totalizer reading, temp.
BGL4	City	City	Electric Line	Weekly	Measure static water level or pumping water level, flow rate, totalizer reading, temp.
BWS East	BWS	BWS	AI Line	Weekly	Measure static water level or pumping water level, flow rate, totalizer reading, temp.
BWS West	BWS	BWS	AI Line	Weekly	Measure static water level or pumping water level, flow rate, totalizer reading, temp.
Flam Shed	Tenneco	Tenneco	Pressure Gauge	Weekly	Measure static pressure, totalizer reading, flow rate, temp.
Flam Office	Tenneco	Tenneco	Pressure Gauge	Weekly	Measure static pressure, totalizer reading, flow rate, temp.
Pool	Tenneco	Tenneco	Electric Line	Weekly	Measure static water level or pumping water level, flow rate, totalizer reading, temp.
Woodstock	Tenneco	Tenneco	Electric Line	Weekly	Measure static water level or pumping water level, flow rate, totalizer reading, temp.
Motorcycle Club	Tenneco	Tenneco	Electric Line	Weekly	Measure static water level or pumping water level, flow rate, totalizer reading, temp.
Capital Hill #1	State DA	State DA	Electric Line	Weekly	Measure static water level or pumping water level, flow rate, totalizer reading, temp.
Capital Hill #2	State DA	State DA	Electric Line	Weekly	Measure static water level or pumping water level, flow rate, totalizer reading, temp.

TABLE 3 - SECONDARY OBSERVATION WELLS

Well Name	Ownership	Monitoring Responsibility	Water Level Measurement Method	Minimum Measurement Frequency	Remarks
Quarry View Shadow	City	City	Electric Line	Monthly	upon agreement by the parties, may be dropped from program following one year
Quarry View Deep	City	City	Electric Line	Monthly	
Gambie	City	City	Electric Line	Monthly	City to monitor water level until Tapp Well is available
Pen Well No. 1	State IDL	State IDL	Electric Line	Monthly	

TABLE 4 - NON-PARTY WELLS

Well Name	Ownership	Monitoring Responsibility	Water Level Measurement Method	Minimum Measurement Frequency	Remarks
BLM	US	USGS	Transducer/data logger	Continuous	City agrees to info over monitoring; USGS discontinues monitoring
VA Test Injection	VA	VA	Pressure Gauge	Weekly	
VA Production	VA	VA	Electric Line	Weekly	Measure static pressure or water level
VA Injection	VA	VA	Pressure Gauge	Weekly	Measure pumping water level, flow rate, temp.
Quail Hollow Lower	Quail Hollow	Quail Hollow	Electric Line	Weekly	Measure operating pressure, flow rate, temp.
Quail Hollow Upper	Quail Hollow	Quail Hollow	Electric Line	Weekly	Measure static water level or pumping water level, flow rate, temp.
Harris	Harris	Harris	Transducer/data logger	Continuous	Measure static water level or pumping water level, flow rate, temp.

*Sept 1 - Oct 12 and Feb 1 - March 14 only

**supplement continuous monitoring with weekly hand measurements in September and October

Per 325022 Disputated Agreement by Withdrawal of Harris Protest; City to purchase transducer

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

OFFICE
COPY

IN THE MATTER OF PETITION FOR)
ORDER AUTHORIZING ADDITIONAL)
USE UNDER EXISTING PERMITS AND)
MORATORIUM ORDER FOR WATER)
RIGHTS 63-9138 & 63-9139 IN THE)
NAME OF THE CITY OF BOISE)
_____)

ORDER EXTENDING STAY
OF FURTHER PROCEEDINGS

Pursuant to the September 6, 2002 Order Accepting Settlement in Part and Stay of Proceedings Regarding Remainder of Petition entered in this matter and the February 25, 2004 motion by the City of Boise joined in by the other parties to this proceeding, and having considered the matter, the Director of the Department of Water Resources makes the following Order:

ORDER

IT IS THEREFORE HEREBY ORDERED that further proceedings in the captioned matter are stayed regarding any increase in the production limit above 230 million gallons per year by the City of Boise under water permits 63-9138 and 63-9139 until at least January 1, 2005.

Dated this 24th day of March 2004.



Karl W. Dröcher, Director
Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of March, 2004, the above and foregoing, was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Boise Warm Springs Water District
c/o Bruce Smith
Moore Smith Buxton & Turcke
225 N. Ninth St Ste 420
Boise, ID 83702

Edwards' Greenhouses
c/o Dana Hofstetter
Hofstetter Law Office
608 W. Franklin St
Boise, ID 83702

State of Idaho, Dept. of Lands
c/o Harriet Hensley
Attorney General's Office
P.O. Box 83720
Boise, ID 83720-0010

State of Idaho, Dept of Admin
c/o Joanna L. Guilfooy
650 W. State St Room 100
Boise, ID 83720-0003

Terteling Company, Inc.
c/o Charles Honsinger
Ringert Clark Chtd
P.O. Box 2773
Boise, ID 83701-2773

Felicia Burkhardt
Rep. of Dallas Harris
c/o Mike Wardle
P.O. Box 125
Boise, ID 83701

Pat Flanagan
Dept. of Veterans Affairs
Medical Center
500 W. Fort Street
Boise, ID 83702

Manager
Quail Hollow Golf Club
4520 N. 36th St
Boise, ID 83703

Robert A. Maynard
Perkins Coie LLP
251 E. Front Street, Ste 400
Boise, ID 83702-7310



Victoria Wigle
Administrative Assistant to the Director
Department of Water Resources

EXHIBIT B

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PETITION FOR
ORDER AUTHORIZING ADDITIONAL USE
UNDER EXISTING PERMITS AND
MORATORIUM ORDER FOR WATER
RIGHTS 63-9138 & 63-9139 IN THE NAME
OF THE CITY OF BOISE

**ORDER ACCEPTING SETTLEMENT
IN PART AND STAY OF FURTHER
PROCEEDINGS**

This matter having come before the Idaho Department of Water Resources ("Department") as a result of Protests filed against the referenced Petition; the Department having previously issued a September 6, 2002 Order accepting a July 24, 2002 agreement for settlement in part and stay of further proceedings in this matter; the Department having issued a March 24, 2004 Order extending the stay of further proceedings; and each of the Parties to this Matter having reached, and submitted on [DATE] _____, 2010, for acceptance by the Department, a [DATE] _____, 2010, agreement ("Agreement") for settlement in part and a further stay of proceedings regarding the relief requested in the Petition, the Department makes the following Order:

ORDER

IT IS HEREBY ORDERED that:

1. The Department accepts the Agreement, which is attached to this Order for reference, as a settlement among each of the parties to this contested matter;
2. Further proceedings in this matter are stayed until further petition or motion by one or more of the parties;
3. The Department shall enforce the terms of the Agreement, to the extent of and in accordance with the Department's authority and the provisions of the Agreement.

**ORDER ACCEPTING SETTLEMENT IN
PART AND STAY OF FURTHER
PROCEEDINGS - 1**

Dated this _____ day of _____, 2010.

Director

By: _____

CERTIFICATE OF SERVICE

I, the undersigned, certify that on _____, 2010, I caused a true and correct copy of the foregoing to be forwarded with all required charges prepaid, by the method(s) indicated below, to the following person(s):

Boise Warm Springs Water District
c/o Bruce Smith
MOORE, SMITH, BUXTON & TURCKE
950 W. Bannock St., Ste. 520
Boise, ID 83702

Hand Delivery _____
U.S. Mail _____
Facsimile _____
Overnight Mail _____

Edwards Family LLC
c/o Dana Hofstetter
HOFSTETTER LAW OFFICE
608 W. Franklin St.
Boise, ID 83702

Hand Delivery _____
U.S. Mail _____
Facsimile _____
Overnight Mail _____

The Terteling Company, Inc.
c/o Charles L. Honsinger
RINGERT CLARK CHARTERED
P.O. Box 2773
Boise, ID 83701-2773

Hand Delivery _____
U.S. Mail _____
Facsimile _____
Overnight Mail _____

State of Idaho, Dept. of Administration
c/o Edith Pacillo
Idaho Attorney General's Office
650 W. State St., Rm. 100
P.O. Box 83720
Boise, ID 83720-0003

Hand Delivery _____
U.S. Mail _____
Facsimile _____
Overnight Mail _____

**ORDER ACCEPTING SETTLEMENT IN
PART AND STAY OF FURTHER
PROCEEDINGS - 2**

State of Idaho, Dept. of Lands
c/o Harriet Hensley
Idaho Attorney General's Office
300 N. 6th St., Ste. 103
P.O. Box 83720
Boise, ID 83720-0050

Hand Delivery _____
U.S. Mail _____
Facsimile _____
Overnight Mail _____

City of Boise
c/o Robert A. Maynard
PERKINS COIE LLP
1111 W. Jefferson St., Ste. 500
P.O. Box 737
Boise, ID 83701-0737

Hand Delivery _____
U.S. Mail _____
Facsimile _____
Overnight Mail _____

Victoria Wigle
Administrative Assistant to the Director
Idaho Department of Water Resources

**ORDER ACCEPTING SETTLEMENT IN
PART AND STAY OF FURTHER
PROCEEDINGS - 3**

31699-0002/LEGAL19028156.1