

No Color
Documents
In File

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

TRANSFER OF WATER RIGHT

AMENDED

TRANSFER NO. 68558

This is to certify that: THE TERTELING COMPANY INC
3823 N 36TH ST
BOISE ID 83703
(208)338-5200

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

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acres	Total	Source
63-12	AJC/Decreed	07/01/1921	0.14 cfs			7.5	GROUND WATER
63-13	AJC/Decreed	07/01/1922	0.66 cfs			7.5	GROUND WATER
63-15	AJC/Decreed	03/23/1927	0.80 cfs			7.5	GROUND WATER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
63-12	NO	NO	YES	YES	NO	NO
63-13	NO	NO	YES	YES	NO	NO
63-15	NO	NO	YES	YES	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
63-12	63-12	0.14 cfs	101.4 af	6.0	15.0		N/A	N/A	N/A	N/A
63-13	63-13	0.66 cfs	400.0 af	6.0	15.0		N/A	N/A	N/A	N/A
63-15	63-15	0.80 cfs	400.0 af	6.0	15.0		N/A	N/A	N/A	N/A
TOTALS		0.86 cfs	400.0 af	6.0	15.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 9th day of October, 2002

J. Glen Saylor
Chief, Water Allocation Bureau

MICROFILMED

FEB 20 2002

WATER RIGHT NO. 63-12
As Modified by Transfer No. 68558

In accordance with the approval of Transfer No. 68558, Water Right No. 63-12 is now described as follows.

Right Holder: THE TERTELING COMPANY INC
 3823 N 36TH ST
 BOISE ID 83703

Priority Date: 07/01/1921

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
HEATING	01/01	to 12/31	0.14 CFS	101.4 AF
DOMESTIC	01/01	to 12/31	0.04 CFS	0.6 AF
IRRIGATION	01/01	to 12/31	0.14 CFS	38.0 AF
			0.14 CFS	101.4 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWNWSW Sec. 22Twp 04N Rge 02E ADA County
GROUND WATER	NWNWSW Sec. 28 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County

PLACE OF USE: HEATING & DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02E 22									X				X				
04N 02E 29													X				

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02E 22									7.0				.5				7.5
04N 02E 29													7.5				7.5

Total Acres: 15

MICROFILMED
 MAR 30 2007

WATER RIGHT NO. 63-12
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

1. Right 63-12 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.
2. Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.
3. The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.
4. Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.
6. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
7. The Silkey v. Tiegs decree specifically addressed and protected artesian pressure in the aquifer. The Department, in deference to the Silkey decree, will refrain from examining whether the artesian pressure in Stewart Gulch constitutes a reasonable pumping level and is in the public interest pursuant to I.C. § 42-226 until such time as the court addresses the issue in the Snake River Basin Adjudication.
8. The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermaster's annual report to IDWR.
9. Unless otherwise determined by the Snake River Adjudication, diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing priority dates earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWR's own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.
10. Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.

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MAR 20 2003

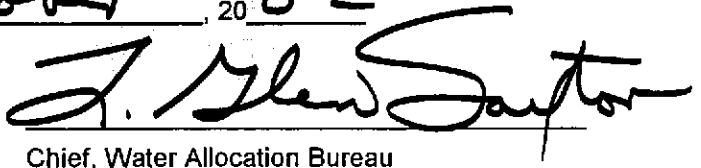
WATER RIGHT NO. 63-12
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

11. Use of water under this right may be affected by an agreement between the protestant and the right holder.
12. Irrigation use is for inside commercial greenhouses and outside irrigation.
13. Domestic use is for business offices.
14. The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.
15. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
16. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
17. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
18. Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 9th day of October, 2002


Chief, Water Allocation Bureau

MICROFILMED
MAR 20 2003

WATER RIGHT NO. 63-13
As Modified by Transfer No. 68558

In accordance with the approval of Transfer No. 68558, Water Right No. 63-13 is now described as follows.

Right Holder: THE TERTELING COMPANY INC
 3823 N 36TH ST
 BOISE ID 83703

Priority Date: 07/01/1922

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	01/01 to 12/31		0.66 CFS	38.0 AF
DOMESTIC	01/01 to 12/31		0.04 CFS	0.6 AF
HEATING	01/01 to 12/31		0.66 CFS	400.0 AF
			0.66 CFS	400.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWNWSW Sec. 22 Twp 04N Rge 02E ADA County
GROUND WATER	NWNWSW Sec. 28 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals	
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
04N 02E 22									7.0				.5					7.5
04N 02E 29																7.5		7.5

Total Acres: 15

PLACE OF USE: DOMESTIC & HEATING

Twp Rge Sec	NE				NW				SW				SE				Totals	
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
04N 02E 22									X				X					
04N 02E 29														X				

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WATER RIGHT NO. 63-13
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

1. Right 63-13 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.
2. Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.
3. The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.
4. Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.
6. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
7. The Silkey v. Tiegs decree specifically addressed and protected artesian pressure in the aquifer. The Department, in deference to the Silkey decree, will refrain from examining whether the artesian pressure in Stewart Gulch constitutes a reasonable pumping level and is in the public interest pursuant to I.C. § 42-226 until such time as the court addresses the issue in the Snake River Basin Adjudication
8. The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.
9. Unless otherwise determined by the Snake River Adjudication, diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing priority dates earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWR's own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.
10. Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.

WICAC 11/12

10/12/11

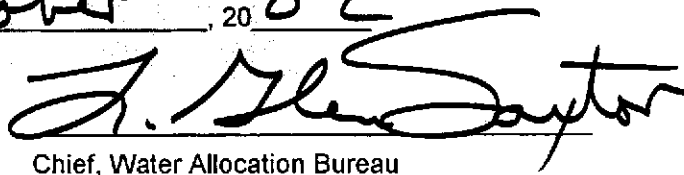
WATER RIGHT NO. 63-13
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

11. Use of water under this right may be affected by an agreement between the protestant and the right holder.
12. Irrigation use is for inside commercial greenhouses and outside irrigation.
13. Domestic use is for business offices.
14. The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.
15. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
16. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
17. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
18. Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 9th day of October, 2002


Chief, Water Allocation Bureau

MICHAEL J. Saylor

MAR 28 2003

WATER RIGHT NO. 63-15
As Modified by Transfer No. 68558

In accordance with the approval of Transfer No. 68558, Water Right No. 63-15 is now described as follows.

Right Holder: THE TERTELING COMPANY INC
 3823 N 36TH ST
 BOISE ID 83703

Priority Date: 03/23/1927

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DOMESTIC	01/01 to	12/31	0.04 CFS	0.6 AF
IRRIGATION	01/01 to	12/31	0.80 CFS	38.0 AF
HEATING	01/01 to	12/31	0.80 CFS	400.0 AF
			0.80 CFS	400.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWNWSW Sec. 22 Twp 04N Rge 02E ADA County
GROUND WATER	NWNWSW Sec. 28 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County

PLACE OF USE: DOMESTIC & HEATING

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02E 22									X				X				
04N 02E 29														X			

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02E 22									7.0				.5				7.5
04N 02E 29													7.5				7.5

Total Acres: 15

MICHAEL
 MAY 20 2007

WATER RIGHT NO. 63-15
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

1. Right 63-15 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.
2. Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.
3. The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.
4. Water under Right 63-15 shall not be diverted or allowed to flow pending further direction from the court as described under the Silkey v. Tiegs decree dated 06-13-1930.
5. Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.
6. Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.
7. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
8. The Silkey v. Tiegs decree specifically addressed and protected artesian pressure in the aquifer. The Department, in deference to the Silkey decree, will refrain from examining whether the artesian pressure in Stewart Gulch constitutes a reasonable pumping level and is in the public interest pursuant to I.C. § 42-226 until such time as the court addresses the issue in the Snake River Basin Adjudication.
9. The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.
10. Unless otherwise determined by the Snake River Adjudication, diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing priority dates earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWR's own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.

MICHAEL J. GALL

MAY 20 2003

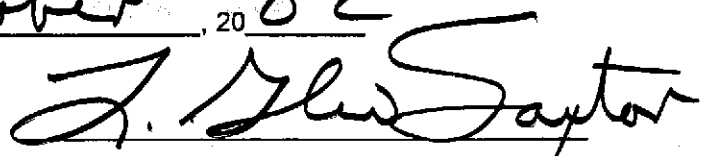
WATER RIGHT NO. 63-15
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

11. Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.
12. Use of water under this right may be affected by an agreement between the protestant and the right holder.
13. Irrigation use is for inside commercial greenhouses and outside irrigation.
14. Domestic use is for business offices.
15. The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.
16. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
17. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
18. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
19. Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 9th day of October, 2002


Chief, Water Allocation Bureau

MAILED

OCT 10 2002

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF TRANSFER NO.)
68558 IN THE NAME OF THE TERTLING)
COMPANY INC.)
_____)

**ORDER GRANTING PETITION
FOR RECONSIDERATION**

This matter having come before the Department of Water Resources (Department) as a petition to reconsider the approval of a water right transfer, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On June 3, 2002 the Department approved Water Right Transfer No. 68558 (transfer) in the form of a preliminary order (order). A Copy of the order was mailed to The Tertling Company Inc. (applicant) on June 4, 2002.
2. On June 18, 2002, the Department received a Petition for Reconsideration (petition) in connection with the order from John Marshall, attorney, on behalf of the applicant. The petitioner seeks a change to one of the conditions of the approval of the transfer.

CONCLUSIONS OF LAW

1. Section 67-5243(3), *Idaho Code*, provides in pertinent part as follows:

Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a recommended order or a preliminary order within fourteen (14) days of the issuance of that order. The presiding officer shall render a written order disposing of the petition.

2. The petition was filed timely.
3. The Department should grant the petition pursuant to Section 67-5243(3), *Idaho Code*, so that it can review the issue raised by the petitioner and make any changes to the transfer, if appropriate, by amending the transfer and re-issuing as a new preliminary order.

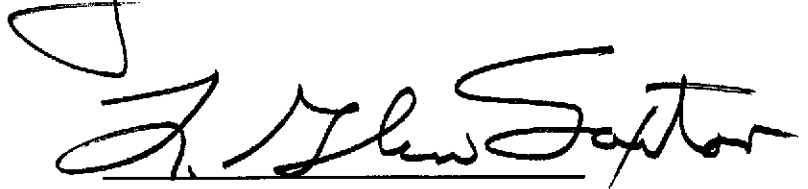
MICROFILMED

MAY 20 2003

ORDER

IT IS HEREBY ORDERED that the petition is **GRANTED** pursuant to Section 67-5243(3), *Idaho Code*, so that the Department can review the issue raised by the petitioner in the petition.

Dated this 5th day of July, 2002.

A handwritten signature in black ink, appearing to read "L. Glen Saxton", written over a horizontal line.

L. GLEN SAXTON
Chief, Water Allocation Bureau

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 68558

This is to certify that: THE TERTELING COMPANY INC
3823 N 36TH ST
BOISE ID 83703
(208)338-5200

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

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>	<u>Total</u>	<u>Source</u>
63-12	AJC/Decreed	07/01/1921	0.14 cfs			7.5	GROUND WATER
63-13	AJC/Decreed	07/01/1922	0.66 cfs			7.5	GROUND WATER
63-15	AJC/Decreed	03/23/1927	0.80 cfs			7.5	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-12	NO	NO	YES	YES	NO	NO
63-13	NO	NO	YES	YES	NO	NO
63-15	NO	NO	YES	YES	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-12	63-12	0.14 cfs	101.4 af	6.0	15.0		N/A	N/A	N/A	N/A
63-13	63-13	0.66 cfs	400.0 af	6.0	15.0		N/A	N/A	N/A	N/A
63-15	63-15	0.80 cfs	400.0 af	6.0	15.0		N/A	N/A	N/A	N/A
TOTALS		0.86 cfs	400.0 af	6.0	15.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 3rd day of June, 2002

[Signature]
Chief, Water Allocation Bureau

MICROFILMED

JUN 11 2002

WATER RIGHT NO. 63-12
As Modified by Transfer No. 68558

In accordance with the approval of Transfer No. 68558, Water Right No. 63-12 is now described as follows.

Right Holder: THE TERTELING COMPANY INC
 3823 N 36TH ST
 BOISE ID 83703

Priority Date: 07/01/1921

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
HEATING	01/01	to 12/31	0.14 CFS	101.4 AF
DOMESTIC	01/01	to 12/31	0.04 CFS	0.6 AF
IRRIGATION	01/01	to 12/31	0.14 CFS	38.0 AF
			0.14 CFS	101.4 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWNWSW Sec. 22Twp 04N Rge 02E ADA County
GROUND WATER	NWNWSW Sec. 28 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County

PLACE OF USE: HEATING & DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
04N 02E 22								X				X					
04N 02E 29													X				

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
04N 02E 22								7.0				.5					7.5
04N 02E 29													7.5				7.5

Total Acres: 15

MICROFILMED

11/18/2002

WATER RIGHT NO. 63-12
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

1. Right 63-12 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.
2. Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.
3. The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.
4. Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.
6. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
7. Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.
8. The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.
9. Diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing a priority date earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells recognized in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWRs own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.
10. Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.

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JUN 11 2002

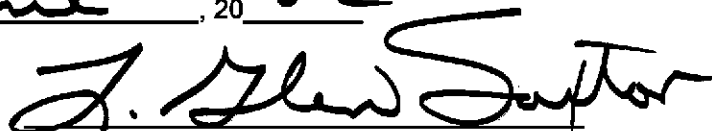
WATER RIGHT NO. 63-12
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

11. Use of water under this right may be affected by an agreement between the protestant and the right holder.
12. Irrigation use is for inside commercial greenhouses and outside irrigation.
13. Domestic use is for business offices.
14. The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.
15. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
16. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
17. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 3rd day of June, 2002



Chief, Water Allocation Bureau

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JUN 6 1 2002

WATER RIGHT NO. 63-13
As Modified by Transfer No. 68558

In accordance with the approval of Transfer No. 68558, Water Right No. 63-13 is now described as follows.

Right Holder: THE TERTELING COMPANY INC
 3823 N 36TH ST
 BOISE ID 83703

Priority Date: 07/01/1922

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	01/01	to 12/31	0.66 CFS	38.0 AF
DOMESTIC	01/01	to 12/31	0.04 CFS	0.6 AF
HEATING	01/01	to 12/31	0.66 CFS	400.0 AF
			0.66 CFS	400.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWNWSW Sec. 22 Twp 04N Rge 02E ADA County
GROUND WATER	NWNWSW Sec. 28 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02E 22									7.0			.5					7.5
04N 02E 29													7.5				7.5

Total Acres: 15

PLACE OF USE: DOMESTIC & HEATING

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02E 22									X			X					
04N 02E 29													X				

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WATER RIGHT NO. 63-13
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

1. Right 63-13 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.
2. Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.
3. The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.
4. Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.
6. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
7. Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.
8. The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.
9. Diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing a priority date earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells recognized in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWRs own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.
10. Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.

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JUN 11 2002

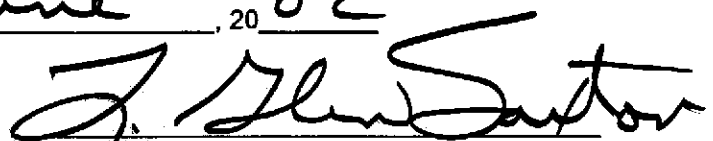
WATER RIGHT NO. 63-13
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

11. Use of water under this right may be affected by an agreement between the protestant and the right holder.
12. Irrigation use is for inside commercial greenhouses and outside irrigation.
13. Domestic use is for business offices.
14. The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.
15. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
16. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
17. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 3rd day of June, 2002



Chief, Water Allocation Bureau

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JUN 11 2002

WATER RIGHT NO. 63-15
As Modified by Transfer No. 68558

In accordance with the approval of Transfer No. 68558, Water Right No. 63-15 is now described as follows.

Right Holder: THE TERTELING COMPANY INC
 3823 N 36TH ST
 BOISE ID 83703

Priority Date: 03/23/1927

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DOMESTIC	01/01	to 12/31	0.04 CFS	0.6 AF
IRRIGATION	01/01	to 12/31	0.80 CFS	38.0 AF
HEATING	01/01	to 12/31	0.80 CFS	400.0 AF
			0.80 CFS	400.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWNWSW Sec. 22 Twp 04N Rge 02E ADA County
GROUND WATER	NWNWSW Sec. 28 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County
GROUND WATER	NENESE Sec. 29 Twp 04N Rge 02E ADA County

PLACE OF USE: DOMESTIC & HEATING

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02E 22									X				X				
04N 02E 29														X			

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02E 22									7.0				.5				7.5
04N 02E 29													7.5				7.5

Total Acres: 15

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JUN 11 2002

WATER RIGHT NO. 63-15
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

1. Right 63-15 is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.
2. Rights 63-12, 63-13 and 63-15 when combined shall not exceed a total annual maximum diversion volume of 38.0 af for irrigation of 6.0 acres, 0.6 af for domestic use, and 400.0 af for heating and all combined uses.
3. The total instantaneous diversion of water from all points of diversion under Rights 63-12, 63-13 and 63-15 shall not exceed 0.86 cfs, nor a total combined annual volume of 400.0 af.
4. Water under Right 63-15 shall not be diverted or allowed to flow pending further direction from the court as described under the Silkey v. Tiegs decree dated 06-13-1930.
5. Prior to diversion of water under approval of Transfer 68558, action shall be taken to activate Water District 63-S. Diversion and use of water from the Windsock well is contingent upon continued activity of Water District 63-S.
6. Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch.
7. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
8. Diversion from points of diversion authorized by this water right and other measurements described below shall be measured and recorded at least weekly. The measurements shall include aquifer shut in pressure, well-head pressure under pumping conditions, artesian flow or pumping discharge rate, totalized production volume for the period between readings, and water temperature. If these measurements are not being taken directly by the watermaster, the measurements must be reported to the watermaster at least quarterly.
9. The measuring devices for the wells must be calibrated by an independent method of measurement at least once a year. These calibrations shall be included in the watermasters annual report to IDWR.
10. Diversion from the Windsock well shall not significantly reduce artesian pressure for water rights bearing a priority date earlier than December 20, 2000, describing points of diversion within Water District 63-S. A significant reduction is defined as a decline in pressure below historical pressure reductions caused by diverting from the wells recognized in the Silkey v. Tiegs decree. Upon written complaint of significant reduction from the holder of a water right bearing a priority date earlier than December 20, 2000 or upon IDWRs own initiative, and upon a preliminary finding by IDWR that there has been a significant reduction in pressure, the director may require the right holder to: (a) conduct further monitoring to determine whether diversion from the Windsock well is causing the significant reduction in pressure; (b) curtail diversion of water from the Windsock well; or (c) require mitigation for diversion of water from the Windsock well.

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JUN 19 2002

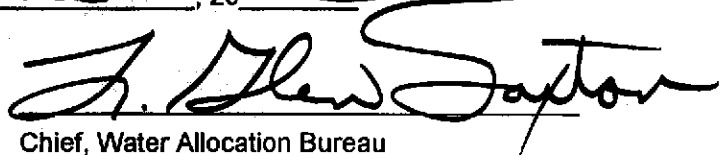
WATER RIGHT NO. 63-15
As Modified by Transfer No. 68558

CONDITIONS OF APPROVAL

11. Low temperature geothermal water diverted under this right shall not be used for domestic or irrigation purposes unless it is first used for heating purposes.
12. Use of water under this right may be affected by an agreement between the protestant and the right holder.
13. Irrigation use is for inside commercial greenhouses and outside irrigation.
14. Domestic use is for business offices.
15. The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.
16. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
17. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
18. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 3rd day of June, 2002


Chief, Water Allocation Bureau

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JUN 7 1 2002

Case Number 11748

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR ADA COUNTY.

FRANCES SILKEY,)

Plaintiff,)

v.)

H. W. TIEGS, THOMAS F.)
EDWARDS and J. RYAN,)

Defendants.

DECREE.

This case came regularly on for trial before the court without a jury on the ____ day of January, 1930, Edwin Snow appearing as attorney for plaintiff, and Wm. M. Morgan and T. L. Martin appearing as attorneys for the defendants. Whereupon the case was heard and submitted and duly considered; and the court having made and filed herein its decision, findings of fact and conclusions of law,

NOW THEREFORE, on motion of plaintiff, it is ORDERED, ADJUDGED AND DECREED as follows:

(1) That the waters herein decreed and allotted are subterranean waters subject to appropriation by the several parties hereto under the laws of the State of Idaho. That the waters flowing from the artesian well of each party is derived from the same source, and the supply of said wells constitutes one interdependent and connected source of supply, and such waters and said wells are hereby drawn within the jurisdiction of this court for distribution for beneficial uses under and pursuant to the terms of this decree.

(2) Plaintiff is hereby decreed a prior right to the use of forty miners inches of said water flowing from her said wells located on the land hereinafter described, said quantity of water to be measured at said wells, with priority as to seven miners inches of such water dating from

July 1, 1921, and with p;ri

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63 0012

Trans 2268

JUN 1 1936

center of Section twenty-nine (29), Township Four (4) North, Range Two (2) east of Boise Meridian; thence running South 75 degrees East 7.91 chains; thence North 12.68 chains; thence North 47 degrees 39 minutes West 10.40 chains; thence south 17.89 chains to the place of beginning. Area Eleven and 67/100 (11.67) acres more or less.

Also:

Commencing at a point 14.96 chains North and 7.91 chains South 75 degrees and 30 minutes East from the center of Section 29, Township 4 North, Range 2 East of the Boise Meridian; thence South 75 degrees and 30 minutes East a distance of 7.51 chains to an iron pipe; thence north 1 degree and 20 minutes East a distance of 6.33 chains to an iron pipe; thence North 22 degrees and 50 minutes East a distance of 1.38 chains to a point; thence North 48 degrees and 10 minutes West a distance of 10.67 chains to a post set in concrete; thence South a distance of 12.83 chains to the place of beginning containing Seven and Seventy-six (7.76) Hundredths acres more or less.

Said land belonging to defendant Edwards aggregates 25.58 acres.

Said right to be subject to the further provisions of this decree.

63 0015

(4) That the defendant H. W. Tiegs is hereby decreed the right to the use of forty miners inches of water from his well (measured at said well) located on his land hereinafter described for irrigation, domestic, stock and heating purposes, with priority dating from March 23, 1927, said water to be appurtenant to the following described land;

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Commencing at the Quarter Corner on the West line of Section 28, Township 4 North, Range 2 East of the Boise Meridian; thence south along the West line of said Section 28, 1137 feet, thence East 683 feet, more or less, to the West line of the Leonard E. Griffith Tract (see deed recorded in Book 107 of Deeds, page 124), thence North 564 feet along the West line of said Griffith tract to the center of the County Road, commonly known as the Foot Hill road; thence Northwesterly along the center of said County Road to the place of beginning.

Also:

Beginning at the quarter section corner between Sections 28 and 29, Township 4 North, Range 2 East of the Boise Meridian; thence South 29 minutes West 17.26 chains along the Section line; thence South 89 minutes 53 seconds East 10.29 chains to a point; thence North 20 minutes east 8.55 chains to the center of the County Road; thence North 47 degrees 53 minutes West 13.00 chains to the East and West quarter section line; thence North 89 degrees and 22 minutes West 0.54 chains to the place of beginning containing 13.48 acres.

Said land belonging to defendant Tiegs aggregates approximately _____ acres.

Said right to be subject to the further provisions of this decree.

63 0016

(5) That defendant J. Ryan is hereby decreed the right to the use of forty miners inches of water from his well (measured at said well) located on his land hereinafter described for irrigation, domestic, stock and heating purposes with priority dating from September 24, 1927, said water to be appurtenant to the following described land;

The East one-half ($E\frac{1}{2}$) of the Northeast Quarter

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(11) The court retains jurisdiction of this cause for a period of two years from this date to adjust the allowance of water permitted to be used from the wells of the defendants, in case it should hereafter appear from said record of measurements that more or less water than herein provisionally fixed may or should be permitted to flow from the wells of said defendants, or any of them, without infringement of the rights herein decreed in accordance with their respective priorities. The court also retains jurisdiction during said period to correct any clerical error herein, such as land descriptions or the like. The court also retains jurisdiction to make such further orders as may be found necessary to give effect to this decree and to punish the parties hereto, their agents and employees and their grantees and successors in interest for any violation of the provisions hereof. In all other respects, this decree shall be final.

(12) Plaintiff shall have and recover against the defendants her costs herein taxed at \$_____, and shall be entitled to execution therefor.

Dated this 13 day of June, 1930.

Dana E. Brinck, District Judge.

Entered and Filed Jun 13, 1930.

State of Idaho)
County of Ada.) ss. Stephen Utter, Clerk
JUN 21 1930 Certificate

I, STEPHEN UTTER, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the foregoing is a true and correct copy of the original DECREE filed in the above entitled action and remaining now on file in my office at Boise City, Ada County, Idaho.

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JUN 11 2002

MEMORANDUM

TO: FILE 63-00015
FROM: VAULT
RE: TRANSFER # 68558
DATE: 10.10.02

=====

**Original Transfer Application, Form and correspondence regarding the above
referenced Transfer is located within:**

FILE # 63-00012

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MAR 20 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 8, 2000

THE TERTELING COMPANY INC
3823 N 36TH ST
BOISE ID 83703

RE: Order In the Matter of Transfer No. 68558 - Water Rights 63-12, 13, 15

Dear Water Right Holder(s):

Enclosed please find Order Granting Petition for Reconsideration issued by the department in reference to the above listed information.

If you have any questions regarding this matter, please call me at 327-7940.

Sincerely,

for Jeff Peppersack
Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure

cc: Dana Hofstetter, Hofstetter Law Offices, 608 W. Franklin St., Boise, ID 83702
John Marshall, Givens Pursley, PO Box 2720, Boise, ID 83701-2720

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MAR 20 2003

GIVENS PURSLEY LLP

RECEIVED

JUL - 8 2002

RECEIVED

JUN 19 2002

WATER RESOURCES
WESTERN REGION

Department of Water Resources

LAW OFFICES
277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Direct Dial: (208) 388-1234
E-Mail: s234@givenspursley.com

Gary G. Allen
Christopher J. Beeson
Michael C. Creamer
Jeffrey A. DeVoe
Emily MacMaster Durkee
Thomas E. Dvorak
Roy Lewis Eiguren
Timothy P. Fearnside
Jeffrey C. Fereday
Steven J. Hippler
Karl T. Klein
Debora K. Kristensen
Anne C. Kunkel

Franklin G. Lee
David R. Lombardi
D. David Loretto, Jr.
Kevin T. Maloney
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
Kendall L. Miller
L. Edward Miller
Patrick J. Miller

Judson B. Montgomery
Angela K. Nelson
Deborah E. Nelson
W. Hugh O'Riordan
Kenneth L. Pursley
Brad V. Sneed
Conley E. Ward
Robert B. White

Raymond D. Givens
James A. McClure
Stephanie C. Westemeier
OF COUNSEL

June 18, 2002

VIA HAND DELIVERY

Idaho Department of Water Resources
1301 N. Orchard
Boise, ID 83706

RECEIVED

JUN 18 2002

Department of Water Resources

Re: Terteling Co. Inc.; Matter of Transfer No. 68558
Our File: 4465-7

Dear Clerk

Enclosed for filing, please find the original of PETITION FOR RECONSIDERATION in the above stated matter.

Please call me if you have any questions.

Sincerely,



Tina N. Smith
Assistant to John M. Marshall

Enclosures

cc: Tom Terteling
S:\Clients\4465\7\Corr\2002-6-18 ltr clerk Petition.doc

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MAR 23 2003

Jeffrey C. Fereday
John M. Marshall
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300
S:\Clients\4465\7\2002-06-17 Petition to reconsider.doc

Attorneys for The Terteling Co., Inc.

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JUL - 8 2002

RECEIVED Department of Water Resources

JUN 11 2002

Department of Water Resources

RECEIVED

JUN 19 2002

WATER RESOURCES
WESTERN REGION

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF TRANSFER NO.
68558

PETITION FOR RECONSIDERATION

PETITION

This is a petition by the Terteling Company Inc. ("Terteling") for reconsideration of the Department's Preliminary Order for Transfer No. 68558 – water rights 63-12, 63-13 and 63-15. This petition concerns only Condition of Approval No. 9. Terteling requests that the Department amend the condition as follows:

Diversion for the Windsock well shall not significantly reduce ~~artesian pressure~~ pumping levels for water rights bearing a priority dates earlier than December 20, 2000, describing points of diversion within Water District 63-S, below a reasonable pumping level. A significant reduction is defined as a significant decline in ~~pressure~~ pumping levels below historical ~~pressure reductions~~ pumping levels caused by diverting from the wells in the Silkey v. Tiegs decree. . . .

This proposed change replaces references to artesian pressure with reference to reasonable pumping level. The requested change would recognize that the unique protection of

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artesian pressure in the *Silkey v. Tiegs* decree that appears to drive the language in the current condition applies only to the applicant's rights 63-12 and 63-13.

The *Silkey v. Tiegs* decree (copy attached) specifically protects the artesian flows associated with water rights 63-12 and 63-13. To protect these artesian flows, the court ordered a partial curtailment of right no. 63-14 and total curtailment of rights 63-15 and 63-16, the other rights in existence at that time. In other words, the *Silkey v. Tiegs* decree protects the artesian pressures associated only with rights 63-12 and 63-13. The decree does nothing to protect the artesian pressures of other rights. The Condition No. 9 in the Preliminary Order turns the special protection afforded to rights 63-12 and 63-13 on its head and makes these rights responsible for maintaining the artesian pressure of rights that, in accordance with the decree, should not even be diverting.

By moving a portion of rights 63-12 and 63-13 to the Windsock Well, Terteling effectively is giving up the special artesian pressure protection associated with these water rights. The Condition No. 9 as currently written penalizes Terteling for a transfer that should ease the administrative burden in District 63-S by eliminating the pressure protection in *Silkey v. Tiegs* and imposing it on Terteling's rights instead. While Terteling agrees that its transfer cannot injury existing rights, the addition of a special artesian pressure protection condition is not warranted because, as discussed above, *Silkey v. Tiegs* protects the artesian pressure only for rights 63-12 and 63-13. Existing rights therefore should be protected by standard reasonable economic pumping level language instead.

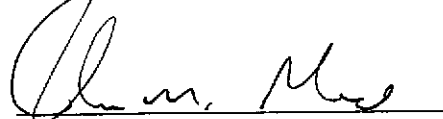
Terteling also requests that the Department insert the word "significant" to modify the phrase "decline in pressure." This proposed change would clarify the definition of injury by ensuring that a "significant reduction" is not defined as any decline. Without the insertion of the

word "significant" as proposed, a water user could argue that the current condition protects against any decline in historic pressure.

For these reasons Terteling requests an amendment of Condition No. 9 as indicated above.

Respectfully submitted this 18th day of June, 2002

GIVENS PURSLEY LLP


John M. Marshall

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of June, 2002, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Dana L. Hofstetter, Esq.
Hofstetter Law Offices
608 W. Franklin St.
Boise, ID 83702

☐ U.S. Mail
☒ By hand
☐ Overnight
☐ Telecopy

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705

☐ U.S. Mail
☒ By hand
☐ Overnight
☐ Telecopy


Tina Smith

①

Case Number 11748

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR ADA COUNTY.

FRANCES SILKEY,)
Plaintiff,)
v.)
H. W. TIEGS, THOMAS F.)
EDWARDS and J. RYAN,)
Defendants.)

Judge
DECREE.

This case came regularly on for trial before the court without a jury on the _____ day of January, 1930, Edwin Snow appearing as attorney for plaintiff, and Wm. M. Morgan and T. L. Martin appearing as attorneys for the defendants. Whereupon the case was heard and submitted and duly considered; and the court having made and filed herein its decision, findings of fact and conclusions of law,

NOW THEREFORE, on motion of plaintiff, it is ORDERED, ADJUDGED AND DECREED as follows:

(1) That the waters herein decreed and allotted are subterranean waters subject to appropriation by the several parties hereto under the laws of the State of Idaho. That the waters flowing from the artesian well of each party is derived from the same source, and the supply of said wells constitutes one interdependent and connected source of supply, and such waters and said wells are hereby drawn within the jurisdiction of this court for distribution for beneficial uses under and pursuant to the terms of this decree.

(2) Plaintiff is hereby decreed a prior right to the use of forty miners inches of said water flowing from her said wells located on the land hereinafter described, said quantity of water to be measured at said wells, with priority as to seven miners inches of such water dating from

July 1, 1921, and with said

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July 1, 1921, and with priority as to thirty-three miners inches of such water dating from July 1, 1922, said water being decreed for irrigation, stock, domestic, heating and other beneficial uses upon the following described land:

* Commencing at the quarter section corner common to sections numbered twenty-eight (28) and twenty-nine (29) in Township numbered four (4) North of Range numbered two (2) East of Boise Meridian; thence south 29' west a distance of 662.3 feet, along the section line common to said sections 28 and 29 to the real place of beginning, thence south 29' west a distance of 778.8 feet along said section line common to sections 28 and 29 to an iron pin; thence north 81°16' west a distance of two hundred twenty-four and two-tenths (224.2) feet along the south bank of Boise City Canal Company ditch, to a point; thence north 61°35' west a distance of one hundred thirty-five and three quarters (135.3/4) feet to a point, thence north 76°20' west a distance of three hundred twenty-eight and four-tenths (328.4) feet, to an iron pin; thence north 39' east a distance of 613.1 feet; thence south 89°11' east a distance of 657.4 feet to the place of beginning, all being in Section 29, Township 4 North, Range 2 East Boise Meridian in Ada County, Idaho; also

JUN 21 1996

+ Commencing at the quarter section corner common to Sections numbered twenty-eight (28) and Twenty-nine (29) in Township Four (4) North, Range Two (2) East of Boise Meridian, the real place of beginning, thence south 0°29' west a distance of six hundred sixty-two and three-tenths (662.3) feet along the section line common to said sections twenty-eight (28) and twenty-nine (29); thence north 89°11' west, parallel to the east and west quarter section line

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JUN 28 1996

of said section twenty-nine (29), a distance of six hundred fifty-seven and four-tenths (657.4) feet; thence north 0°39' east a distance of six hundred sixty-two and three tenths (662.3) feet, to the east and west quarter section line of said section twenty-nine (29); thence south 89°11' east, along said quarter section line, six hundred and fifty-six and five-tenths (656.5) feet to the place of beginning, containing ten acres of land, more or less, together with all water rights, water, ditches, aqueducts upon, leading to or used in connection with the above described land;

all of said property containing approximately twenty acres.

63 0014

(3) Defendant Thomas F. Edwards is hereby decreed the right to the use of forty-two miners inches of water from his well (measured at said well) located on his land hereinafter described, for irrigation, domestic stock and heating purposes with priority dating from November 22, 1926, said water to be appurtenant to the following described land;

Commencing at a point 10.86 chains north of the center of Section 29, Township 4 North, Range 2 E.B.M., a stone, and thence north a distance of 4.10 chains to an iron bar; thence south 75 degrees, East a distance of 15.43 chains to an iron pipe; thence South 1 degree 50 minutes West a distance of 4.15 chains to an iron bar; thence north 74 degrees 43 minutes west a distance of 15.32 chains to a stone, the place of beginning, containing six and fifteen-hundredths acres, more or less.

Also:

Commencing at a point 14.96 chains North of the

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center of Section twenty-nine (29), Township Four (4) North, Range Two (2) east of Boise Meridian; thence running South 75 degrees East 7.91 chains; thence North 12.68 chains; thence North 47 degrees 39 minutes West 10.40 chains; thence south 17.89 chains to the place of beginning. Area Eleven and 67/100 (11.67) acres more or less.

Also:

Commencing at a point 14.96 chains North and 7.91 chains South 75 degrees and 30 minutes East from the center of Section 29, Township 4 North, Range 2 East of the Boise Meridian; thence South 75 degrees and 30 minutes East a distance of 7.51 chains to an iron pipe; thence north 1 degree and 20 minutes East a distance of 6.33 chains to an iron pipe; thence North 22 degrees and 50 minutes East a distance of 1.38 chains to a point; thence North 48 degrees and 10 minutes West a distance of 10.67 chains to a post set in concrete; thence South a distance of 12.83 chains to the place of beginning containing Seven and Seventy-six (7.76) Hundredths acres more or less.

Said land belonging to defendant Edwards aggregates 25.58 acres.

Said right to be subject to the further provisions of this decree.

63 0015 (4) That the defendant H. W. Tiegs is hereby
0.60 decreed the right to the use of forty miners inches of water from his well (measured at said well) located on his land hereinafter described for irrigation, domestic, stock and heating purposes, with priority dating from March 23, 1927, said water to be appurtenant to the following described land;

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Commencing at the Quarter Corner on the West line of Section 28, Township 4 North, Range 2 East of the Boise Meridian; thence south along the West line of said Section 28, 1137 feet, thence East 683 feet, more or less, to the West line of the Leonard E. Griffith Tract (see deed recorded in Book 107 of Deeds, page 124), thence North 564 feet along the West line of said Griffith tract to the center of the County Road, commonly known as the Foot Hill road; thence Northwesterly along the center of said County Road to the place of beginning.

Also:

Beginning at the quarter section corner between Sections 28 and 29, Township 4 North, Range 2 East of the Boise Meridian; thence South 29 minutes West 17.26 chains along the Section line; thence South 89 minutes 53 seconds East 10.29 chains to a point; thence North 20 minutes east 8.55 chains to the center of the County Road; thence North 47 degrees 53 minutes West 13.00 chains to the East and West quarter section line; thence North 89 degrees and 22 minutes West 0.54 chains to the place of beginning containing 13.48 acres.

Said land belonging to defendant Tiegs aggregates approximately _____ acres.

Said right to be subject to the further provisions of this decree.

JUN 21 1996

63 0016 (5) That defendant J. Ryan is hereby decreed the right to the use of forty miners inches of water from his well (measured at said well) located on his land hereinafter described for irrigation, domestic, stock and heating purposes with priority dating from September 24, 1927, said water to be appurtenant to the following described land;

The East one-half ($E\frac{1}{2}$) of the Northeast Quarter

*Added
D.M. Ryan
11/14/01*

MONROE
JUN 21 1996

(NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section
Twenty-nine (29) Township Four North (T. 4N) Range
Two East (R. 2E.) Boise Meridian, containing Twenty
(20) acres.

Said right to be subject to the further provisions of this
decree.

(6) A miners inch of water shall be deemed equiv-
alent to one-fiftieth of a cubic foot per second; all rights
herein decreed and allotted are decreed for beneficial use
only, and none of the parties hereto, their agents or em-
ployees, or their successors in interest, shall have the
right to permit his said well to flow or to use water there-
from in excess of the amount actually required for beneficial
use. The duty of water for irrigation purposes on the lands
of the several parties hereto is hereby fixed and determined
at two miners inches per acre.

(7) The amount of water that may be permitted to
flow from the wells of the defendants is hereby provisionally
fixed and limited as follows: During the period from
October 1st of each year to April 1st of the following year,
the defendant Edwards may be permitted to flow from his said
well and use for beneficial purposes fifteen miners inches of
water; from April 1st to October 1st of each year, said de-
fendant Edwards may be permitted to flow from his said well
and to use for beneficial purposes twenty miners inches of water,
or so much thereof as will not deplete the flow of plaintiff's
wells below forty miners inches. No water shall be permitted
to flow or be used from the respective wells of the defend-
ants Tieg and Ryan, as it is hereby further determined and
and decreed that until further order of the court, no water
can without injury to plaintiff's prior right to the use of
said water to the extent herein decreed be permitted to

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Oct 1-
Apr 1

0.40ch

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flow or be used from the wells of any of the defendants in excess of the amount herein permitted to be used by the defendant Edwards.

(8) Each of the parties hereto shall install and maintain suitable and efficient valves, controlling works and measuring devices at their respective wells, all such valves and controlling works to be adequate to entirely shut off said water when required under the terms of this decree and all such measuring devices to be of such design as to accurately measure the amount of water diverted or flowing. All such controlling works and measuring devices shall at all times be subject to the inspection of any party hereto and of public officials, commissioners or watermasters having jurisdiction over the administration of this decree.

(9) Each and every of the parties hereto and their servants, attorneys, employees and successors in interest are hereby enjoined and restrained from any and all use of the water from their respective wells, except in the manner and to the extent and for the purposes herein provided.

(10) The enforcement of this decree is committed, in the first instance, pending the creation, as provided by law, by the Commissioner of Reclamation of the State of Idaho, of a water district comprising the source of supply of the water rights herein decreed, to said Commissioner of Reclamation who is hereby appointed a commissioner of this court for that purpose, to serve without compensation, he having consented so to do. Said Commissioner is hereby directed to regulate the flow of the wells of the parties hereto in accordance with the terms hereof and to make from time to time measurements of the flow of the said wells and keep a record thereof, and for this purpose may open and close, regulate and measure the flow of said wells.

JUN 21 1996

MOORE

(11) The court retains jurisdiction of this cause for a period of two years from this date to adjust the allowance of water permitted to be used from the wells of the defendants, in case it should hereafter appear from said record of measurements that more or less water than herein provisionally fixed may or should be permitted to flow from the wells of said defendants, or any of them, without infringement of the rights herein decreed in accordance with their respective priorities. The court also retains jurisdiction during said period to correct any clerical error herein, such as land descriptions or the like. The court also retains jurisdiction to make such further orders as may be found necessary to give effect to this decree and to punish the parties hereto, their agents and employees and their grantees and successors in interest for any violation of the provisions hereof. In all other respects, this decree shall be final.

(12) Plaintiff shall have and recover against the defendants her costs herein taxed at \$_____, and shall be entitled to execution therefor.

Dated this 13 day of June, 1930.

Dana E. Brinck, District Judge.

Entered and Filed Jun 13, 1930.

State of Idaho)
County of Ada.) ss. Stephen Utter, Clerk
JUN 21 1930 Certificate

I, STEPHEN UTTER, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the foregoing is a true and correct copy of the original DECREE filed in the above entitled action and remaining now on file in my office at Boise City, Ada County, Idaho.

Given under my hand and the seal of said Court
at office in Boise City, Ada County, Idaho, this the
19th day of August, 1930.

Stephen Patten
Clerk

By Geo. Peterson Deputy.

INDEXED

JUN 21 1996

REC-11

JUN 20 1996

MEMORANDUM

TO: FILE 63-00015
FROM: VAULT
RE: TRANSFER # 68558
DATE: 6.3.02

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**Original Transfer Application, Form and correspondence regarding the above
referenced Transfer is located within:**

FILE # 63-00012

MICROFILMED
JUN 11 2002

MEMORANDUM

TO: FILE 63-00015
FROM: VAULT
RE: TRANSFER # 5875
DATE: 1-22-01

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**Original Transfer Application, Form and correspondence regarding the above
referenced Transfer is located within:**

FILE # 6300012

MICROFILMED
JUN 11 2002

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF THE BOISE)
FRONT LOW TEMPERATURE)
GEOTHERMAL RESOURCE GROUND)
WATER MANAGEMENT AREA)
_____)

**FINAL ORDER
EXTENDING MORATORIUM**

WHEREAS, on June 15, 1987, the Director of the Idaho Department of Water Resources (IDWR) designated the Boise Front Low Temperature Geothermal Resource Ground Water Management Area in Ada County, Idaho, due to reported declines in aquifer water levels and water pressure; and

WHEREAS, on June 11, 1988, IDWR issued an order establishing a five (5) year moratorium to prevent further development or additional use of the low temperature geothermal water resource (resource); and

WHEREAS, on July 7, 1998, IDWR advised the users of the resource that IDWR was reviewing the need for the moratorium and whether it should be modified or extended. IDWR requested written comments on the nature of the action IDWR should take in connection with the expiring moratorium; and

WHEREAS, six (6) parties submitted written comment to IDWR. All major users supported extending the moratorium for an additional five (5) years.

NOW THEREFORE, pursuant to Section 42-1805(7), Idaho Code, and IDAPA Rule 37.03.08055 (Water Appropriation Rule 55), IT IS HEREBY ORDERED that:

(1) The order dated June 10, 1988 which established a moratorium on further development and additional use of the low temperature geothermal water resource in the Boise Front Ground Water Management area is extended.

(2) The provisions of this order are effective for five (5) years from the date issued unless rescinded or modified by order of a court of competent jurisdiction or unless rescinded or modified by order of the Director.

Dated this 1st day of September, 1998.



KARL J. DREHER
Director

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