

**STARTING
LEFT
SIDE OF
FILE**

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 63-31999

Priority: August 16, 2004

Maximum Diversion Rate: 0.11 CFS

This is to certify, that FLINDA F TERTELING
3823 N 36TH ST
BOISE ID 83703

has applied for a permit to appropriate water from:

Source: WASTE WATER

Tributary: BOISE RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
HEATING	01/01 to 12/31	0.11 CFS

LOCATION OF POINT OF DIVERSION:

WASTE WATER NE¼ SE¼ Sec. 29, Twp 04N, Rge 02E, B.M. ADA County

PLACE OF USE: 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 29																	X

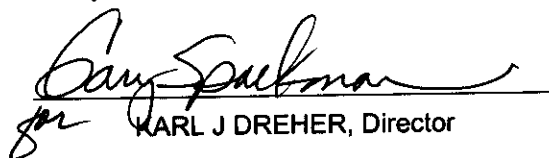
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2011**.
2. Subject to all prior water rights.
3. Prior to diversion of water under this right, measuring devices of a type acceptable to IDWR shall be installed at the proposed point of diversion and the proposed discharge from the heating network. The measuring devices shall ensure that the identical quantity of water being diverted is discharging back to the ditch from which it was diverted.
4. Use of water under this right shall be non-consumptive.
5. This right shall be regulated by the Watermaster of Water District No. 63-S. Regulation by the watermaster includes unannounced inspections and measurement of the ground water diverted under right nos. 63-12, 63-13 and 63-15 from which waste water would be generated in the NE1/4SE1/4, Section 29, T4N, R2E (36th Street and Hill Road) and/or unannounced watermaster inspections and measurement of wastewater diversion and beneficial use under this right.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-31999

6. IDWR shall issue a notice of violation and an order to show cause why this right should not be cancelled or revoked if IDWR determines any of the following:
- a) The right holder is consumptively using water under this right.
 - b) Low temperature geothermal water is being delivered to the wastewater right holder and used without beneficially using the low temperature geothermal water at the 36th Street and Hill Road site, or that the beneficial use at that site is not reasonably efficient.
 - c) The right holder is diverting or using water not in compliance with the conditions of this water right.
7. Heating use is for 1 home, a garage and a workshop.
8. The source of water diverted under this right is waste water subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
9. This right does not grant any right-of-way or easement across the land of another.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 2nd day of February, 2006.


for **KARL J DREHER, Director**

RECEIVED

RECEIVED

MAR 03 2005

DEPARTMENT OF
WATER RESOURCES

FORM 202
12/99

SEP 21 2004

WATER RESOURCES
WESTERN REGION

Ident. No. 63-31999

RECEIVED

AUG 16 2004
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Flinda F. Terteling Phone 351-5205
(208) 236-3200

Mailing address 3623 N. 36th Street, Boise, ID 83703

2. Source of water supply Wastewater which is a tributary of Boise River

3. Location of point of diversion is Township 4N Range 02E Sec. 29, in the 1/4,
NE 1/4, SE 1/4, Govt. Lot _____, B.M. Ada County;

additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount .11 PT for Heating purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount .02 PT for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) .11 PT and/or (b) _____
Cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source Ditch to pipe

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet

d. Is ground water with a temperature of greater than 86°F being sought? _____

e. If well is already drilled, when? _____; Drilling firm _____;

Well was drilled for (well owner) _____; Drilling Permit No. _____

7. Time Required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

a. Hydropower; show total feet of head and proposed capacity in kW. _____

b. Stockwatering; list number and kind of livestock _____

c. Municipal; show name of municipality _____

d. Domestic; show number of households One household

e. Other; describe fully. Heating use will be for one household located at 3717 N. Woody Dr., Boise 83703

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	2E	29													H				

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. N/A

11. a. Who owns the property at the point of diversion? The Terteling Company

b. Who owns the land to be irrigated or place of use? Flinda F. Terteling

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: The Terteling Company has executed an agreement permitting Flinda F. Terteling to divert this wastewater from Terteling Company property.

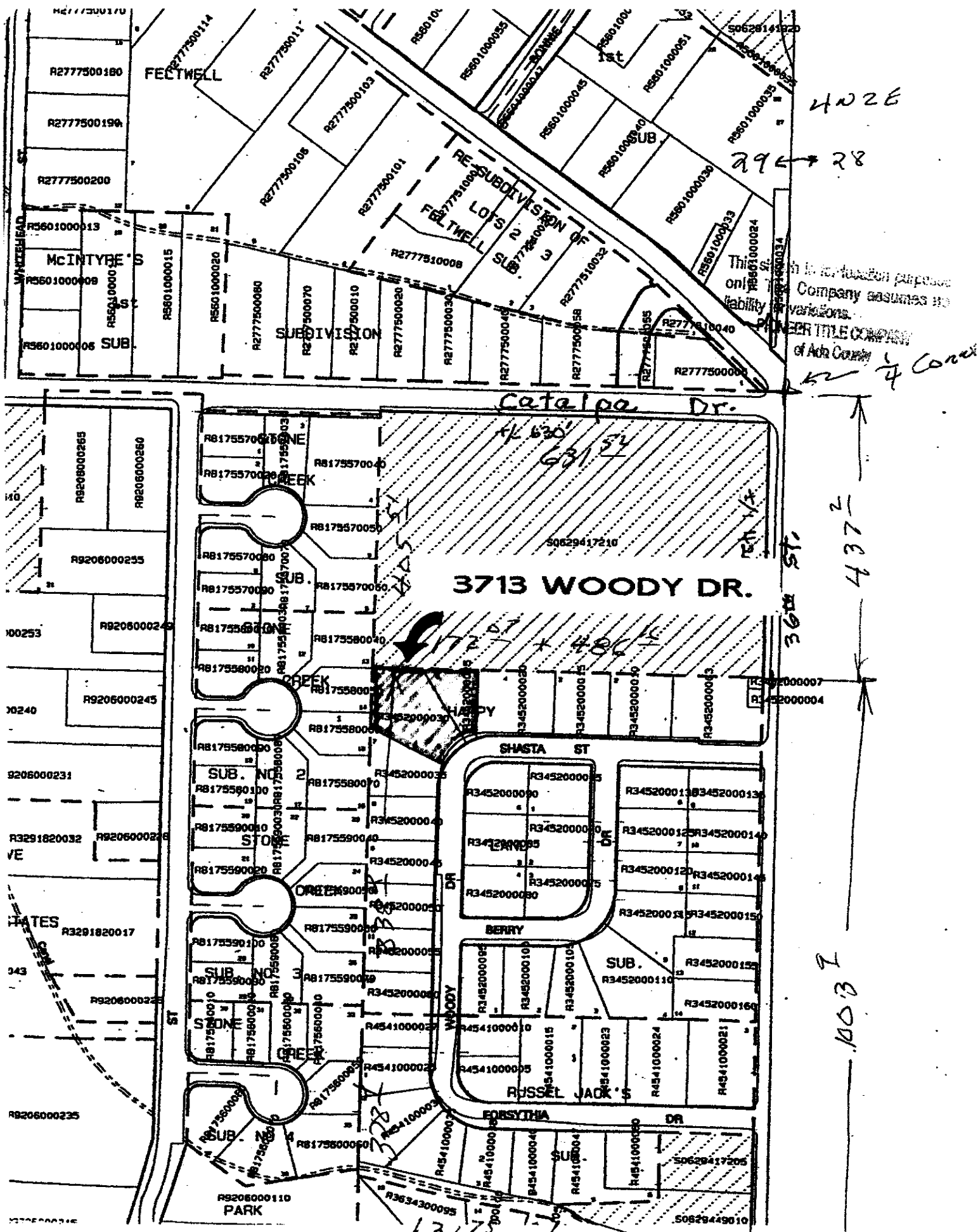
12. Remarks: _____

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

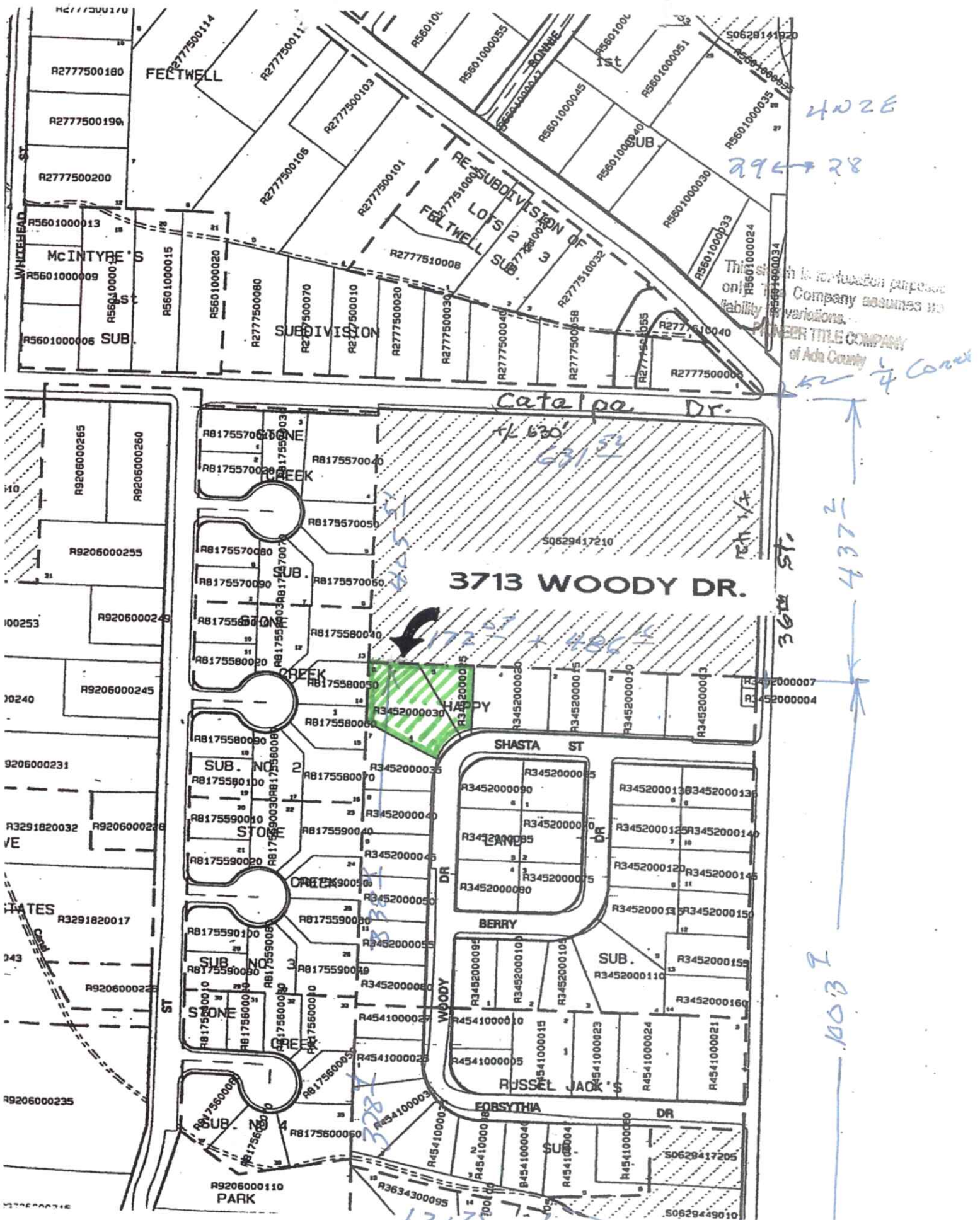
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Flinda Terteling
Signature of Applicant (and title, if applicable)

Received by AK Date 7/1/04 Time 12:58 / 8-16-04 receipt date
Fee \$ 100 Receipted by sk Date # W032116 Preliminary check by lg
Publication prepared by sk Date 6-7-04 Published in THE IDAHO STATESMAN
Publication approved sk Date 10-25-04



63.31999



RESIDENTIAL SPACE HEATING/COOLING REQUIREMENTS FOR COLD OR GEOTHERMAL SOURCES

Worksheet created by Cindy Hodges, 11/93.

Data entered by: lgraves
Exam Date: 09/23/04
File No: Terteling
Computations for: Heating

REQUIRED DATA:

Area of livable floor space, ft² (A) 8150
2 story? (N=1, Y=2) 2
House efficiency factor (e) * 0.67
inside design temperature (Ti) 72
Average outside temperature (To) ** 42
Source temperature, degrees F (S) 90
Heating/cooling days per season (D) 180
Hours/day system operates (H) 16

* e values are as follows:

- 0.28 Best energy efficiency - extra insulation, caulked and weatherstripped, with storm windows and doors
- 0.44 Better energy efficiency - standard insulation, caulked and weatherstripped, with storm windows and/or doors
- 0.67 Average residence - standard insulation, no weatherproofing but with storm windows or double panes
- 1.11 Poor energy efficiency - minimal insulation, no weatherproofing or storm windows (older homes, shops or greenhouses)

* Suggested average outside temperatures:

WINTER

4 deg F Boise
6 deg F Grand View
-8 deg F Cascade

SUMMER

80 deg F Boise
90 deg F Grand View
70 deg F Cascade

CALCULATED DATA:

DESIGN HEAT LOAD (BTU/hr required)
Formula: $E = [e \times (T_i - T_o)] A$
Applies factor of 0.8 for two-story dwelling

E = 131,052 BTU/hour

TEMPERATURE DROP ACROSS SYSTEM
Formula: $T_s = 0.3 \times [S - T_i]$

T_s = 5.4 degrees F

FLOW RATE REQUIRED (at given source temperature)
Formula: $Q = E / (500 \times T_s) \times 448.8$

Q = 0.11 cfs

DIVERTED VOLUME OVER SEASON
Formula: $V_{div} = Q \times D \times H / 24 \times 1.9835$

V_{div} = 25.7 AFA

AVERAGE TEMPERATURE CALCULATION:

4 DEG MIN + 80 DEG HIGH / 2 =

42 DEG AVERAGE YEAR ROUND TEMP.

RESIDENTIAL SPACE HEATING/COOLING REQUIREMENTS FOR COLD OR GEOTHERMAL SOURCES

Worksheet created by Cindy Hodges, 11/93.

Data entered by: lgraves
Exam Date: 09/23/04
File No: Terteling
Computations for: Heating

REQUIRED DATA:

Area of livable floor space, ft2 (A)	8150
2 story? (N=1, Y=2)	2
House efficiency factor (e) *	0.67
inside design temperature (Ti)	72
Average outside temperature (To) **	4
Source temperature, degrees F (S)	90
Heating/cooling days per season (D)	180
Hours/day system operates (H)	16

* e values are as follows:

- 0.28 Best energy efficiency - extra insulation, caulked and weatherstripped, with storm windows and doors
- 0.44 Better energy efficiency - standard insulation, caulked and weatherstripped, with storm windows and/or doors
- 0.67 Average residence - standard insulation, no weatherproofing but with storm windows or double panes
- 1.11 Poor energy efficiency - minimal insulation, no weatherproofing or storm windows (older homes, shops or greenhouses)

** Suggested average outside temperatures:

WINTER
4 deg F Boise
6 deg F Grand View
-8 deg F Cascade

SUMMER
80 deg F Boise
90 deg F Grand View
70 deg F Cascade

CALCULATED DATA:

DESIGN HEAT LOAD (BTU/hr required)
Formula: $E = [e \times (T_i - T_o)] A$
Applies factor of 0.8 for two-story dwelling

E = 297,051 BTU/hour

TEMPERATURE DROP ACROSS SYSTEM
Formula: $T_s = 0.3 \times [S - T_i]$

Ts = 5.4 degrees F

FLOW RATE REQUIRED (at given source temperature)
Formula: $Q = E / (500 \times T_s) \times 448.8$

Q = 0.25 cfs

DIVERTED VOLUME OVER SEASON
Formula: $V_{div} = Q \times D \times H / 24 \times 1.9835$

Vdiv = 58.3 AFA

AVERAGE TEMPERATURE CALCULATION:

4 DEG MIN + 80 DEG HIGH / 2 =
42 DEG AVERAGE YEAR ROUND TEMP.

RESIDENTIAL SPACE HEATING/COOLING REQUIREMENTS FOR COLD OR GEOTHERMAL SOURCES

Data entered by: _____
 Date: _____
 File No: _____
 Computations for: _____

REQUIRED DATA:

Area of livable floor space, ft² (A) 8150 S.F.
 2 story? (N=1, Y=2) Y
 House efficiency factor (e) * 0.67
 Inside design temperature (Ti) 72°F
 Average outside temperature (To) ** 4°F
 Source temperature, degrees F (S) 90°
 Heating/cooling days per season (D) 180
 Hours/day system operates (H) 16

**PLEASE SUBMIT A DIAGRAM
 OF YOUR SYSTEM
 OR SYSTEM BLUE PRINT.**

* e values are as follows:

- 0.28 Best energy efficiency - extra insulation, caulked and weatherstripped, with storm windows and doors
- 0.44 Better energy efficiency - standard insulation, caulked and weatherstripped, with storm windows and/or doors
- 0.67 Average residence - standard insulation, no weatherproofing but with storm windows or double panes
- 1.11 Poor energy efficiency - minimal insulation, no weatherproofing or storm windows (older homes, shops or greenhouses)

** Suggested average outside temperatures:

WINTER

4 deg F Boise

6 deg F Grand View

-8 deg F Cascade

SUMMER

80 deg F Boise

90 deg F Grand View

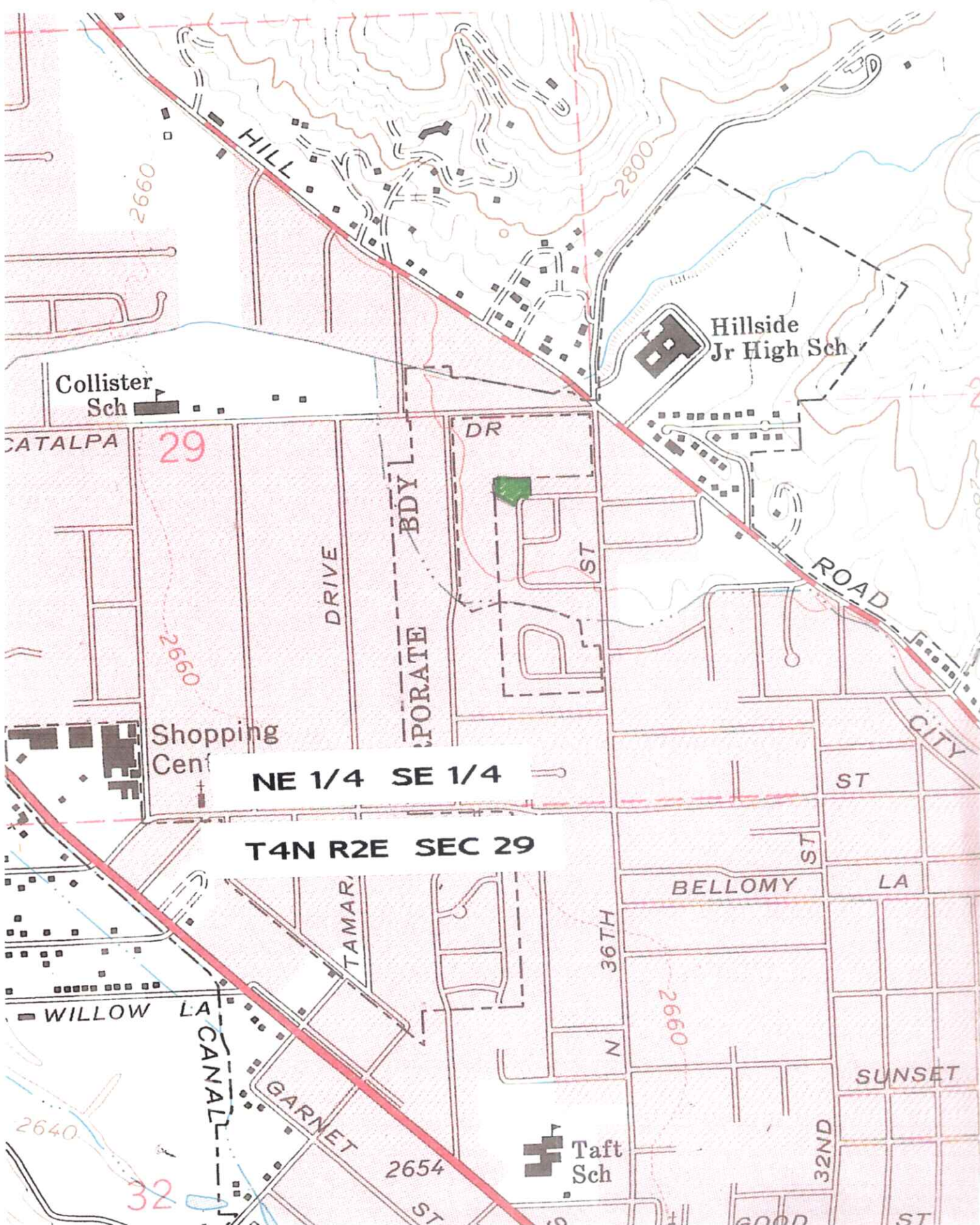
70 deg F Cascade

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SEP 21 2004

WATER RESOURCES
 WESTERN REGION

63-31999



Collister Sch

Hillside Jr High Sch

CATALPA

29

DR

DRIVE

CORPORATE BDL

ST

ROAD

CITY

Shopping Cen

NE 1/4 SE 1/4

ST

T4N R2E SEC 29

ST

BELLOMY

LA

36TH

2660

WILLOW

LA CANAL

GARNET

2654

Taft Sch

SUNSET

32ND

2640

32

GOOD

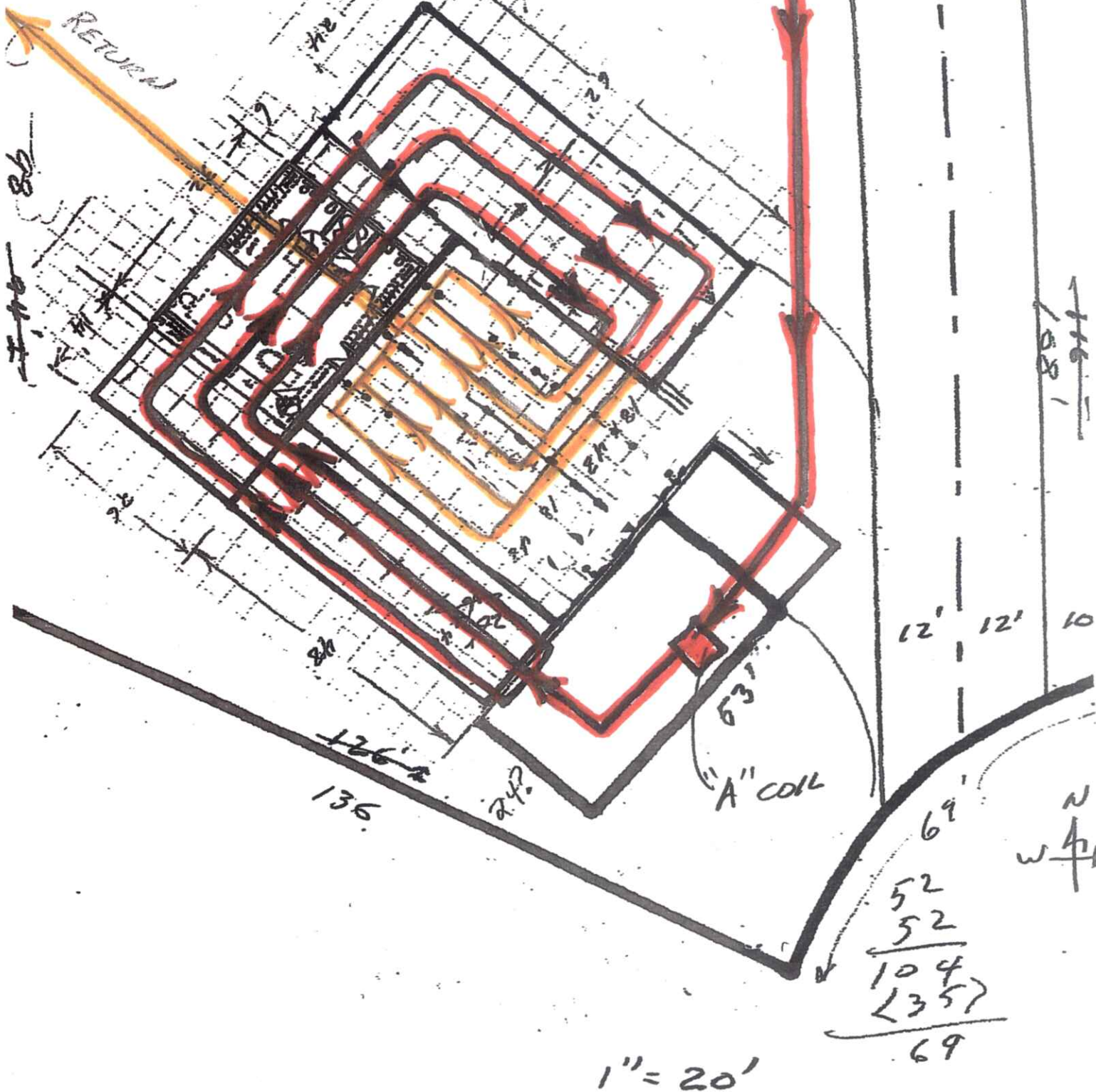
ST

126
 $\angle 357$
 172 DISCHARGE

160
 SLOPE

SUPPLY

RETURN



RECEIVED

SEP 21 2004

WATER RESOURCES
WESTERN REGION

September 17, 2004

Lori Graves
Sr. Water Right Agent
Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Flinda Terteling Application - Amended

Dear Lori:

Attached is an amended application. The information below has been changed to reflect the amended application.

1. Development Plan

- A.) Estimated square footage of the building – 8,150 SF
- B.) Inside design temperature of the building – house 72 degrees; garage/shop 60 degrees
- C.) Designed energy efficiency value for the building – house R40; garage R20
- D.) Water source temperature – est. 90 degrees
- E.) Water discharge plan – into the same small canal
- F.) Type and/or model of heat exchanger – 1st a coil direct; 2nd tubing in floor in house; 3rd tubing in floor of garage; 4th tubing in floor under court yard.

2. Mitigation Plan – The uses are non consumptive in that the water will come from the small canal that borders the property on the north and discharged in to the same canal after running through tubing.

3. Application Fee – attached with prior letter dated August 13, 2004.

Attached is a site plan of the project. Red indicates enclosed pipe.

Please address any future correspondence to me at 3823 N. 36th Street, Boise, ID 83703. I can also be reached at 381-5205 or 859-9906.

Sincerely,

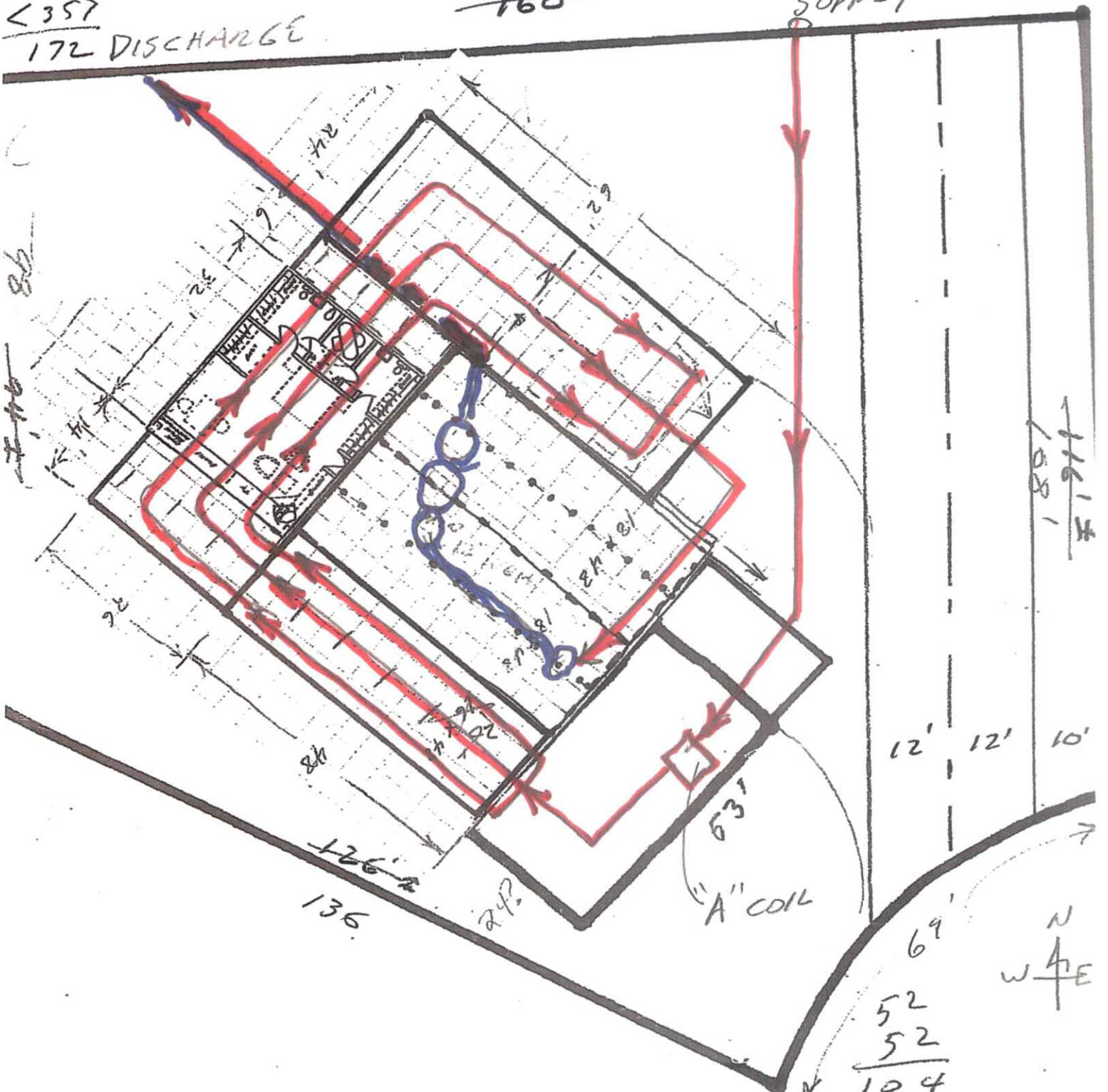

Flinda Terteling

Enclosures

126
 $\angle 357$
 172 DISCHARGE

~~160~~ I

SUPPLY



RD
 4-28-03

1" = 20'

69
 52
 52
 $\angle 357$
 69

N
 W A E

amended 9/21/04

AUG 16 2004
WATER RESOURCES
WESTERN REGION

To appropriate the public waters of the State of Idaho

- year)

e. Other; describe fully. Heating use will be for one household located at 3717 N. Woody Dr., Boise 83703

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	2E	29													D, H				

Total number of acres to be irrigated 5 (Domestic)

10. Describe any other water rights used for the same purposes as described above. N/A

11. a. Who owns the property at the point of diversion? The Terteling Company

b. Who owns the land to be irrigated or place of use? Flinda F. Terteling

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: The Terteling Company has executed an agreement permitting Flinda F. Terteling to divert this wastewater from Terteling Company property.

12. Remarks: _____

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Flinda Terteling
Signature of Applicant (and title, if applicable)

Received by sh Date 7/1/04 Time 12:58 Preliminary check by 8-16-04 receipt date
Fee \$ 100 Received by sk Date # W032116 Preliminary check by 6
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

RECEIVED

JUL 01 2004

FORM 202
12/99

WATER RESOURCES
WESTERN REGION

Ident. No.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

1st
VERSION
amended 8/16/04

1. Name of Applicant Flinda F. Terteling Phone (208)338-5200

Mailing address 3623 N. 36th Street, Boise, ID 83703

2. Source of water supply Wastewater which is a tributary of Boise River

3. Location of point of diversion is Township 4N Range 02E Sec. 29, in the 1/4,
NE 1/4, SE 1/4, Govt. Lot _____, B.M. Ada County;

additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount .80cfs for Heating purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount .02cfs for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) .80 cfs and/or (b) _____
Cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source Ditch to pipe

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet

d. Is ground water with a temperature of greater than 86°F being sought? _____

e. If well is already drilled, when? _____; Drilling firm _____;

Well was drilled for (well owner) _____; Drilling Permit No. _____

7. Time Required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

a. Hydropower; show total feet of head and proposed capacity in kW _____

b. Stockwatering; list number and kind of livestock _____

c. Municipal; show name of municipality _____

d. Domestic; show number of households One household

e. Other; describe fully. Heating use will be for one household located at 3717 N. Woody Dr., Boise 83703

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is for other purposes, place a symbol of the use (*example: D for Domestic*) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	2E	29													D, H				

Total number of acres to be irrigated .5 (Domestic)

10. Describe any other water rights used for the same purposes as described above. N/A

11. a. Who owns the property at the point of diversion? The Terteling Company

b. Who owns the land to be irrigated or place of use? Flinda F. Terteling

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: The Terteling Company has executed an agreement permitting Flinda F. Terteling to divert this wastewater from Terteling Company property.

12. Remarks: _____

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of BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Flinda Terteling
Signature of Applicant (and title, if applicable)

Received by h Date 7/1/04 Time 12:58 Preliminary check by _____
Fee \$ _____ Receipted by _____ Date # _____ Preliminary check by _____
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 8, 2006

FLINDA F TERTELING
3823 N 36TH ST
BOISE ID 83703

RE: Permit No. 63-31999

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

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

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

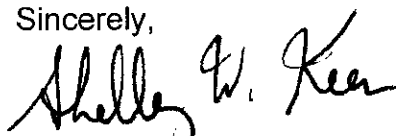
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

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

If you have any questions, please contact me at 208-287-4947.

Sincerely,

A handwritten signature in black ink that reads "Shelley W. Keen". The signature is written in a cursive style with a large, stylized "S" and "K".

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

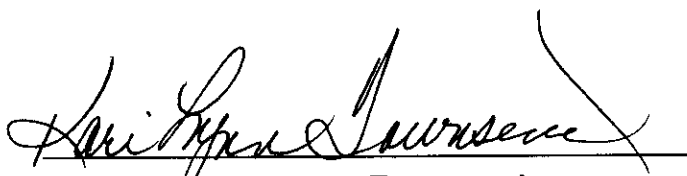
CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2006 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

63-31999

**FLINDA F TERTELING
3823 N 36TH ST
BOISE ID 83703**



**Kari Lynn Townsend
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

RECEIVED

JAN 31 2006

DEPARTMENT OF
WATER RESOURCES

January 27, 2006

Gary Spackman
State of Idaho
Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Application 63-31999

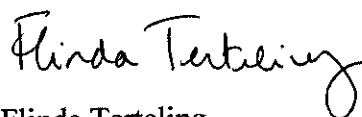
Dear Mr. Spackman:

Attached is the information you originally requested in your letter of September 7, 2005. I misunderstood that that information needed to be provided before a permit could be issued.

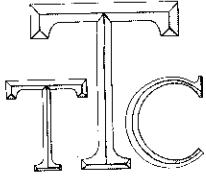
In the future, please direct correspondence to me at 3823 N. 36th Street. ^{Idg} The Department is using 3623 N. 36th Street and your letter of January 11th reached me on the 18th.

Please call me at 381-5205 if you have any questions or need further information.

Sincerely,



Flinda Terteling
3823 N. 36th Street
Boise, ID 83703



January 25, 2006

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

Attn. Director, Gary Spackman

RE: Application to Appropriate Water no. 63-31999 in name of Flinda Terteling

It is The Terteling Company Inc. (TTCI) understanding that Flinda Terteling, a private owner of a residential lot which adjoins our six and half acre parcel along the southwest corner, has applied for a waste water permit for the water we are discharging. TTCI has hired Mike Wilson, a professional engineer, to design a system to beneficially use the heat in our commercial buildings before discharging it. After TTCI's use and discharge, I consider it "free to capture" and Ms. Terteling is free to apply for such a waste water permit.

When we purchased the property and the Silkey and Tiegs wells, it was my understanding that the wells had flowed low temperature geothermal water since around 1926. The water was used for heating and irrigating crops then discharged to the southwest corner of the property. All water in this ditch originates on this property. I have never seen anyone from any ditch company on our property. I am unaware of any maintenance done by any ditch company; consequently I consider the discharge and irrigation use of this water under the control of the landowner, TTCI, and not a ditch company. Therefore, if it is required by The Department of Water Resources that permission be given to Flinda to remove some of TTCI's discharged waste water from the southwest corner of its property, to be used on her property, and then return it to the same area of the TTCI property, then permission is hereby granted.

Sincerely,

The Terteling Company, Inc.

A handwritten signature in cursive script, appearing to read 'Joe Terteling'.

J.L. Terteling President

RIGHT OF REMOVAL AND REPLACEMENT OF WASTE WATER

The Terteling Company, Inc. (TTCI), owner of a six and one half acre parcel in Boise, ID, located at the southwest corner of 36th Street and Catalpa hereby grants to Flinda Terteling the owner of a residential lot better known as 3713 Woody Drive, the right to remove TTCI's waste water, which has already been beneficially used and then discharged as "free to capture". TTCI also grants the right to replace the used water back into the existing discharge irrigation ditch..

The Terteling Company, Inc.

A handwritten signature in cursive script, appearing to read "Joe Terteling".

J.L. Terteling President

January 25, 2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 11, 2006

FLINDA F TERTELING
3623 N 36TH ST
BOISE ID 83703

RE: Application to Appropriate Water No. 63-31999 in the name of Flinda Terteling

Dear Ms. Terteling:

On September 7, 2005, I wrote you a letter requesting that you provide additional information to support your application to divert and use wastewater for heating purposes. I renewed the request in my September 29, 2005, letter to you. The Department of Water Resources has not yet received the requested information.

The Department will issue your permit as soon as you provide the requested information. I have enclosed a copy of my original request for you to review.

If you do not provide the requested information within 30 days, the Department will assume that you are no longer interested in receiving a permit, and your application will be voided pursuant to Idaho Code § 42-204.

If you have any questions, please call me at 208-287-4943, or email me at Gary.Spackman@idwr.idaho.gov.

Sincerely,


Gary Spackman

CC: DANA HOFSTETTER

MEMORANDUM

Date: October 04, 2005
To: Water Right File 63-31999
From: eretelle
Re: permit review

WD 63-S.

Protest resolved. No overlaps.

Still waiting on information re: control of ditch by Boise City Canal Co. or another entity.

Special conditions included.

Recommend approval as suggested by IDWR Western upon receipt of canal information.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 29, 2005

FLINDA F TERTELING
3623 N 36TH ST
BOISE ID 83703

DANA HOFSTETTER
ATTORNEY AT LAW
608 WEST FRANKLIN ST
BOISE ID 83702

Re: Application to Appropriate Water no. 63-31999 in the name of Flinda Terteling

Dear Ladies:

On September 22, 2005, I received a letter from Flinda Terteling stating that the conditions proposed in my letter of September 7, 2005 are acceptable. I received no comments from Edwards Family, LLC.

I am forwarding the file for preparation of a permit with the suggested conditions. The permit will be issued upon submittal of the information requested of Flinda Terteling in my September 7, 2005 letter.

Sincerely,

Gary Spackman

Cc: Western Region

RECEIVED
SEP 22 2005
Department of Water Resources

September 21, 2005

Mr. Gary Spackman
State of Idaho
Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Application to Appropriate Water No. 63-31999 in the name of Flinda Terteling

Dear Mr. Spackman:

The proposed conditions in your letter dated September 7, 2005 are acceptable. Please proceed with issuing the waste water permit with the proposed conditions.

Sincerely,



Flinda Terteling
3823 N. 36th Street
Boise, Idaho 83703

September 21, 2005

Mr. Gary Spackman
State of Idaho
Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Application to Appropriate Water No. 63-31999 in the name of Flinda Terteling

Dear Mr. Spackman:

The proposed conditions in your letter dated September 7, 2005 are acceptable. Please proceed with issuing the waste water permit with the proposed conditions.

Sincerely,



Flinda Terteling
3823 N. 36th Street
Boise, Idaho 83703



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

September 7, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

FLINDA F TERTELING
3623 N 36TH ST
BOISE ID 83703

DANA HOFSTETTER
ATTORNEY AT LAW
608 WEST FRANKLIN ST
BOISE ID 83702

Re: Application to Appropriate Water no. 63-31999 in the name of Flinda Terteling

Dear Ladies:

I apologize for the delay in the review of application to appropriate water no. 63-31999. I've read the written comments each of you submitted. I've also reviewed the documents in the file.

It is not clear if the ditch from which Flinda Terteling proposes to divert is controlled by a water delivery organization. Past investigations by staff of the Idaho Department of Water Resources (IDWR) concluded that the Boise City Canal Company controls and possibly maintains the ditch. Prior to approval of the application, Flinda Terteling should provide written confirmation from the Boise City Canal Company or from another local delivery organization, if identified as the controlling entity, regarding the following points:

1. Whether or not the ditch remains under the control of the local delivery organization.
2. Written consent to divert from the ditch if it is under control of that organization.

If the application to appropriate wastewater were filed by an applicant unrelated to the water right holder who originally diverts the water from the source, the review of the wastewater delivery would be minimal. Based on the information available to me, however, Flinda Terteling is an officer in the Terteling Company. The Terteling Company holds water rights that authorize heating, irrigation, and domestic uses for the greenhouse business located southwest of 36th Street and Hill Road in addition to another place of use found north of this site (along Cartwright Road). I understand Flinda Terteling is also a member of the immediate family whose members are officers in the Terteling Corporation and who may control or direct the activities of water operation. The concern is also heightened because of longstanding controversies about the use of the limited low temperature geothermal resource in the Stewart Gulch vicinity.

The term "wastewater" infers that the water has already been beneficially used and is passing completely from the control of the original water right holder to another location where it can be diverted by the wastewater appropriator. The challenge in considering application no. 63-31999 is to insure that the low temperature geothermal water has been beneficially used at the 36th and Hill site with adequate efficiency by the related water right holder prior to it being wasted from the original place of use.

To insure that low temperature geothermal water is beneficially used by the original water right holder prior to passing it on to the wastewater right holder, I propose IDWR issue a permit authorizing diversion of wastewater with the following conditions:

1. Prior to diversion of water under this right, measuring devices shall be installed at the proposed point of diversion and the proposed discharge from the heating network. The measuring devices shall insure that the identical quantity of water being diverted is discharging back to the ditch from which it was diverted.

2. This right shall be regulated by the Watermaster of Water District no. 63-S. Regulation by the watermaster includes unannounced inspections and measurement of ground water diverted under right nos. 63-12, 63-13 and 63-15 from which waste water would be generated in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29, T4N, R2E (36th Street and Hill Road) and/or unannounced watermaster inspections and measurement of wastewater diversion and beneficial use under this right.

3. IDWR shall issue a notice of violation and an order to show cause why this right should not be cancelled or revoked if IDWR determines any of the following:

(a) The right holder is consumptively using water under this right.

(b) Low temperature geothermal water is being delivered to the wastewater right holder without beneficially using the low temperature geothermal water at the 36th Street and Hill Road site, or that the beneficial use at that site is not reasonably efficient.

(c) The right holder is diverting or using water not in compliance with the conditions of this water right.

In addition, other standard conditions may also be placed on the permit.

Please inform me within fourteen (14) days of this letter whether the proposed conditions are not acceptable. If not, we need to schedule this contested case for hearing.

Sincerely,


Gary Spackman

cc: Western Region

RECEIVED
MAY 02 2005
DEPARTMENT OF
WATER RESOURCES

Flinda Terteling
3823 N. 36th Street
Boise, ID 83703
Telephone: (208) 381-5205
Fax: (208) 381-5206

BEFORE THE DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

APPLICATION FOR PERMIT)
NO. 63-31999 IN THE NAME OF)
FLINDA F. TERTELING)

WRITTEN COMMENTS

The Applicant is seeking the right to divert waste water from a ditch located on the north and west side of property owned by Applicant for heating purposes only. There is no consumptive use since waste water would be diverted from the ditch to provide one of the heat sources for Applicant's home and then returned to the same ditch in a closed loop system. Applicant's use would have no impact on the quantity of water flowing in the ditch from Applicant's property to neighboring properties.

The Applicant understands and agrees that the waste water could only be used if the waste water is available in the ditch. If the waste water is not available, Applicant recognizes she has no right and would not take any action to compel The Terteling Company, Inc. to discharge a specific quantity or temperature of water so that Applicant would have waste water available for heating use.

The Application for Permit provides a legal description of the quarter corner as the point of diversion and does not further identify the point of diversion as the property boundary. Applicant agrees that the property boundary designation is appropriate.

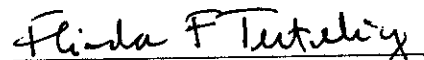
Applicant's home already has a gas furnace system. A heat pump or some supplementary type of backup gas or electrical system will be used in the remodeled area because of the knowledge that the waste water could only be used if it is present. It is not necessary for the Department to add a condition to the permit requiring the Applicant to install a supplemental heat supply when common sense dictates the necessity to do so in the living area.

The main source of the waste water at this time is water rights 63-00012, 63-00013 and 63-00015 owned by The Terteling Company, Inc. (TTCI). Since TTCI is regulated and monitored by Water District 63-S, there is no need for Applicant nor the Watermaster to be burdened by regulation and monitoring of Applicant's use of waste water by Water District 63-S.

Square footage provided in the Application includes an enclosed central courtyard area of 2,304 square feet. As per the drawing enclosed with the Application, the courtyard area is heated as the water is returned to the ditch. The workshop and garage areas are not intended to be maintained at the same temperature as the living area. A small portion of the new construction will have two stories. The existing living area has both a basement and second story above the existing garage. The temperature of the water in the ditch will be determined by a number of factors including the outside temperature, the amount of water being discharged into the ditch, runoff from irrigation, the location along the property line where the water is supplied, rain, snow, etc.

In summary, this Application is for non-consumptive waste water use only. The Applicant is requesting a permit to make use of the heat from the waste water if it is present in the ditch that borders Applicant's property.

Dated this 29th of April, 2005.


Flinda F. Terteling, Applicant

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of April, 2005, I caused the foregoing Written Comments to be served by the method(s) indicated on the following:

Original to:

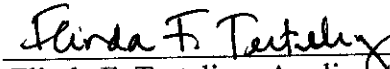
Gary Spackman
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
By Mail and Fax

Copies to:

Garnett Monnie
Edwards Family LLC
322 Sand Creek Street
Boise, ID 83703
By Mail

Dana Hofstetter
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, ID 83702
By Mail

Norm Young
ERO Resources Corporation
1106 North Cole Road, Suite C
Boise, ID 83704
By Mail


Flinda F. Terteling, Applicant

Flinda Terteling
3823 N. 36th Street
Boise, ID 83703
Telephone: (208) 381-5205
Fax: (208) 381-5206

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

APPLICATION FOR PERMIT)
NO. 63-31999 IN THE NAME OF)
FLINDA F. TERTELING)

WRITTEN COMMENTS

The Applicant is seeking the right to divert waste water from a ditch located on the north and west side of property owned by Applicant for heating purposes only. There is no consumptive use since waste water would be diverted from the ditch to provide one of the heat sources for Applicant's home and then returned to the same ditch in a closed loop system. Applicant's use would have no impact on the quantity of water flowing in the ditch from Applicant's property to neighboring properties.

The Applicant understands and agrees that the waste water could only be used if the waste water is available in the ditch. If the waste water is not available, Applicant recognizes she has no right and would not take any action to compel The Terteling Company, Inc. to discharge a specific quantity or temperature of water so that Applicant would have waste water available for heating use.

The Application for Permit provides a legal description of the quarter corner as the point of diversion and does not further identify the point of diversion as the property boundary. Applicant agrees that the property boundary designation is appropriate.

Applicant's home already has a gas furnace system. A heat pump or some supplementary type of backup gas or electrical system will be used in the remodeled area because of the knowledge that the waste water could only be used if it is present. It is not necessary for the Department to add a condition to the permit requiring the Applicant to install a supplemental heat supply when common sense dictates the necessity to do so in the living area.

The main source of the waste water at this time is water rights 63-00012, 63-00013 and 63-00015 owned by The Terteling Company, Inc. (TTCI). Since TTCI is regulated and monitored by Water District 63-S, there is no need for Applicant nor the Watermaster to be burdened by regulation and monitoring of Applicant's use of waste water by Water District 63-S.

Square footage provided in the Application includes an enclosed central courtyard area of 2,304 square feet. As per the drawing enclosed with the Application, the courtyard area is heated as the water is returned to the ditch. The workshop and garage areas are not intended to be maintained at the same temperature as the living area. A small portion of the new construction will have two stories. The existing living area has both a basement and second story above the existing garage. The temperature of the water in the ditch will be determined by a number of factors including the outside temperature, the amount of water being discharged into the ditch, runoff from irrigation, the location along the property line where the water is supplied, rain, snow, etc.

In summary, this Application is for non-consumptive waste water use only. The Applicant is requesting a permit to make use of the heat from the waste water if it is present in the ditch that borders Applicant's property.

Dated this 29th of April, 2005.

Flinda F Terteling
Flinda F. Terteling, Applicant

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of April, 2005, I caused the foregoing
Written Comments to be served by the method(s) indicated on the following:

Original to:

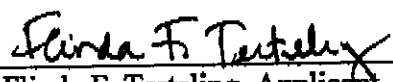
Gary Spackman
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
By Mail and Fax

Copies to:

Garnett Monnie
Edwards Family LLC
322 Sand Creek Street
Boise, ID 83703
By Mail

Dana Hofstetter
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, ID 83702
By Mail

Norm Young
ERO Resources Corporation
1106 North Cole Road, Suite C
Boise, ID 83704
By Mail



Flinda F. Terteling, Applicant

**IDAHO DEPARTMENT OF
WATER RESOURCES**

Fax

To: *Flinda Terteling*

From: Deborah J. Gibson
(208) 287-4942

Fax: *381-5206*

Date: April 29, 2005

Phone:

Pages: *3*

Re:

CC:

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

•Comments:

Order Canceling Hearing

Please contact me at the above number if you have any problems with the transmission of this fax.

RECEIVED
APR 25 2005
Department of Water Resources

Dana L. Hofstetter, ISB #3867
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, Idaho 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774
E-Mail: Dana@IdahoWaterLaw.com

Attorney for Edwards Family LLC

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

IN THE MATTER OF APPLICATION)	Case No. _____
FOR PERMIT NO. 63-31999)	
IN THE NAME OF FLINDA F.)	CERTIFICATE OF SERVICE
TERTELING)	
_____)	

Dana L. Hofstetter, attorney of record for Edwards Family LLC, does hereby
certify that on the 20th day of April, 2005, she caused to be served a copy of the *Written
Comments on Application in Lieu of Hearing* by U.S. Mail and facsimile as follows:

Flinda Terteling
3623 North 36th Street
Boise, Idaho 83703
Facsimile: (208) 381-5200

DATED this 22nd day of April, 2005.

HOFSTETTER LAW OFFICE, LLC

By 
Dana L. Hofstetter
Attorney for Edwards Family LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22nd day of April, 2005, I caused the foregoing **CERTIFICATE OF SERVICE** to be served by the method(s) indicated on the following:

Original to:

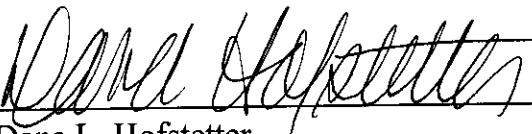
Gary Spackman
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☒ Fax

Copies to:

Flinda Terteling
3623 North 36th Street
Boise, Idaho 83703
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☒ Fax

Garnette Monnie
Edwards Family LLC
322 Sand Creek Street
Boise, Idaho 83703
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Norm Young
ERO Resources Corporation
1106 North Cole Road, Suite C
Boise, Idaho 83704
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax



Dana L. Hofstetter

D:\3006.4\6441

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

IN THE MATTER OF APPLICATION)
TO APPROPRIATE WATER NO.)
63-31999 IN THE NAME OF)
FLINDA F. TERTELING)
_____)

**ORDER CANCELING HEARING
AND PREHEARING ORDER**

FLINDA F. TERTELING (Terteling) filed an application to appropriate water with the Idaho Department of Water Resources (IDWR). The application was assigned identification no. 63-31999. The application seeks the appropriation of 0.11 cubic feet per second (cfs) from wastewater for heating use.

Application to appropriate water no. 63-31999 was protested by Edwards Family, LLC. (Edwards). A hearing for the protest was scheduled for April 26, 2005.

On April 19, 2005, Dana L. Hofstetter (Hofstetter), attorney for Edwards, filed a document with the hearing officer titled "Written Comments on Application in Lieu of Hearing." In the conclusion portion of the document, Hofstetter states that "Edwards does not believe a hearing is necessary."

On April 25, 2005, the hearing officer conducted a telephone conference with Hofstetter and Terteling. At the end of the telephone conference, the parties agreed that the department should accept the comments submitted by Hofstetter, and allow Terteling to submit additional comments on or before May 2, 2005. The parties requested that the hearing officer accept the comments submitted by both parties as written submittal of testimony and write a decision based on the information presented and other information known to IDWR. The parties also agreed that a hearing for the protest should be canceled.

Based on the agreements of the parties:

ORDER

IT IS HEREBY ORDERED that the hearing scheduled for April 25, 2005 is
CANCELED.

IT IS FURTHER ORDERED that Flinda F. Terteling shall submit written comments to IDWR on or before May 2, 2005. The written submittal may contain allegations of fact and arguments of law.

IT IS FURTHER ORDERED that following the submittal of additional information by Terteling, the hearing officer will write a decision based on the information previously submitted by both parties. The hearing officer may also consult additional information in possession of IDWR. Any additional information considered by the hearing officer will be forwarded to the parties for review. Following the review of all information, the hearing officer will issue a preliminary order for application to appropriate water no. 63-31999.

IT IS FURTHER ORDERED that any contest or remedy invoked by the parties following issuance of the preliminary order that (1) questions a finding of fact, or (2) challenges the sufficiency of evidence submitted by one of the parties will result in immediate revocation of the preliminary order. Following revocation of the preliminary order, the hearing officer will conduct a hearing for the protested application.

DATED this 20th day of April 2005.



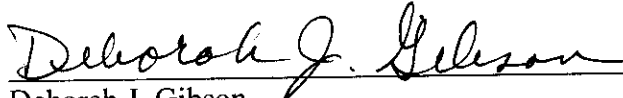
Gary Spackman
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of April 2005, the above and foregoing document 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:

FLINDA F TERTELING
3623 N 36TH ST
BOISE ID 83703

EDWARDS FAMILY LLC
C/O DANA L. HOFSTETTER
608 W FRANKLIN ST
BOISE ID 83702



Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Dana L. Hofstetter, ISB #3867
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, Idaho 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774
E-Mail: Dana@IdahoWaterLaw.com

Attorney for Edwards Family LLC

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

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 63-31999)
IN THE NAME OF FLINDA F.)
TERTELING)
_____)

Case No. _____

CERTIFICATE OF SERVICE

Dana L. Hofstetter, attorney of record for Edwards Family LLC, does hereby
certify that on the 20th day of April, 2005, she caused to be served a copy of the *Written*
Comments on Application in Lieu of Hearing by U.S. Mail and facsimile as follows:

Flinda Terteling
3623 North 36th Street
Boise, Idaho 83703
Facsimile: (208) 381-5200

DATED this 22nd day of April, 2005.

HOFSTETTER LAW OFFICE, LLC

By 
Dana L. Hofstetter
Attorney for Edwards Family LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22nd day of April, 2005, I caused the foregoing **CERTIFICATE OF SERVICE** to be served by the method(s) indicated on the following:

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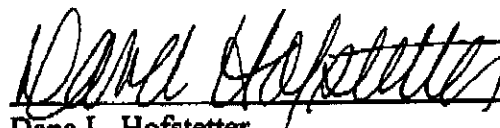
Gary Spackman
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☒ Fax

Copies to:

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3623 North 36th Street
Boise, Idaho 83703
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☒ Fax

Garnette Monnie
Edwards Family LLC
322 Sand Creek Street
Boise, Idaho 83703
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Norm Young
ERO Resources Corporation
1106 North Cole Road, Suite C
Boise, Idaho 83704
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax


Dana L. Hofstetter

D:\3006.4\6441

HOFSTETTER LAW OFFICE, LLC

608 West Franklin Street

Boise, Idaho 83702

Telephone: (208) 424-7800

Facsimile: (208) 424-8774

E-Mail: Dana@IdahoWaterLaw.com

FAX COVER SHEET

April 22, 2005

TO: Gary Spackman

FAX: 287-6700

FROM: Dana Hofstetter

RE: Application for Permit No. 63-31999

The information contained in this facsimile may be confidential information or attorney work product or both and is for the exclusive use of the intended recipient listed above. Any reading, disclosure, use or reproduction of this communication other than by the intended recipient is prohibited. If you have received this communication in error, please notify us by collect telephone call immediately and return the communication to us by U. S. Mail.

NUMBER OF PAGES BEING TRANSMITTED (INCLUDING THIS PAGE) 4

IF ALL PAGES ARE NOT RECEIVED, PLEASE CALL (208) 424-7800.

ORIGINAL BY MAIL: YES X NO

H. SPACKMAN

RECEIVED

APR 19 2005

Department of Water Resources

Dana L. Hofstetter, ISB #3867
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, Idaho 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774
E-Mail: Dana@IdahoWaterLaw.com

ORIGINAL

Attorney for Edwards Family LLC

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

IN THE MATTER OF APPLICATION)	Case No. _____
FOR PERMIT NO. 63-31999)	
IN THE NAME OF FLINDA F.)	WRITTEN COMMENTS ON
TERTELING)	APPLICATION IN LIEU OF
_____)	HEARING

The Protest that was filed on behalf of the Edwards Family LLC against the above-referenced Application initially was filed for the purpose of obtaining information to fully evaluate the potential impacts to District 63-S and its right holders and to evaluate the need for the quantity requested. Edwards Greenhouses, which is operated on land owned by the Edwards Family LLC ("Edwards"), is a third-generation family business. Paul Thomas Edwards developed the original geothermal well that remains an important part

of the business, now managed by his granddaughter, Garnette Monnie. Because of the importance of the geothermal resource to the business's ongoing success, Edwards is vigilant concerning any proposed new or changed uses that may affect the resource. To understand potential impacts to the resource, it is necessary that Edwards obtains the information required to fully evaluate any such proposed new or changed uses. The information provided by the Applicant and her representative at the pre-hearing conference held on February 24, 2005, was helpful in providing information needed to evaluate the Application and to answer most of Edwards' questions.

Edwards does not believe it is necessary to have a hearing, as the factual circumstances appear to be established and understood. Accordingly, Edwards, by and through its counsel of record, Dana L. Hofstetter, respectfully submits these *Written Comments on Application in Lieu of Hearing*. Based on the Application, the information provided at the pre-hearing conference, the requirements of Idaho Code § 42-203(A)(5), and the "Water Appropriation Rules," IDAPA 37.03.08, Edwards requests that the Idaho Department of Water Resources ("IDWR") carefully evaluate the Application as required by law with particular attention to the considerations listed below.

Background

The Application seeks the use of geothermal waste water after it has been diverted and used under Water Right Nos. 63-00012 and 63-00013. In view of the recent Transfer (No. 68558)¹, those water rights now are used at two greenhouse properties run by The Terteling Company (“TTC”). The older greenhouse property is adjacent to the place of use under the Application and would be the source of waste water utilized under the Application. However, the bulk of the greenhouses now are on the second newer site, north in the Boise foothills. Under the recently approved Transfer, the total diverted volume under Water Rights Nos. 63-00012 and 63-00013 is limited to 400 acre feet per annum (“AFA”). Accordingly, the bulk of that diverted volume likely will be used in the foothills property and would be unavailable under the Application. Based on information provided at the pre-hearing conference, the Applicant intends to use the geothermal waste water in the quantities and at the temperature it is made available, for the purpose of heating an outdoor courtyard and a fabric studio building to be constructed on a lot adjacent to the older TTC greenhouse property.

¹ It is understood that there also is another pending Transfer concerning these rights, involving the addition of numerous points of diversion.

Discussion

1. Is the water sought for appropriation, un-appropriated water?

The Application describes a point of diversion located on adjacent land owned by TTC. This raises the question as to whether the Application actually seeks the use solely of waste water which would be diverted at the property boundary, rather than at a point before TTC has lost control of the water. Accordingly, to ensure that the Application entitles the user only to waste water, the point of diversion should be designated as the property boundary. This would help ensure that the permit holder does not obtain any interest in water rights held by The Terteling Company. Also, compliance with the provisions of IDWR Administrative Memorandum No. 27 should be required if the ditch delivering the waste water is a channel owned or controlled by the Boise City Canal Company. Further, it should be considered whether the waste flow already is fully appropriated as the water flow sought to be appropriated is acknowledged to be used in a number of water features by downstream property owners.

2. Will other rights be injured?

Other existing rights should not be injured as a result of the proposed use of waste water. Idaho Code § 42-203A(5). To ensure that the proposed water right will not result in additional diversions from the aquifer to the potential injury of other users, the proposed use should be covered by Water District 63-S regulation, including the monitoring, assessment and other rights and responsibilities of Water District 63-S.

Further, appropriate measuring devices should be required to monitor the quantity of waste water delivered under the water right.

The diversion use of the water under Water Right Nos. 63-00012 and 63-00013, as well as this new water right, must be administered to prevent injury to other rights subject to the overall limitation under the primary rights of a maximum diversion of 400 AFA from the aquifer. In view of the relationship between the Applicant and TTC, a condition prohibiting the diversion of geothermal ground water for the exclusive purpose of providing water to this junior waste water right should be included in any approval. Further, it should be considered whether existing “downstream” rights that rely on the heat value of this same waste water would be injured by the proposed new use.

The Application proposes to heat approximately 8,000 square feet. However, The Terteling Company on the adjacent property currently is heating much less than 8,000 square feet at the higher source temperature under the primary rights. (At the pre-hearing conference, it was estimated that only about 2500 square feet of space currently was being heated at the older TTC greenhouse property under Water Right Nos. 63-00012 and 63-00013). Accordingly, it appears likely that the waste water provided by The Terteling Company will be insufficient to fully heat the 8,000 square feet proposed under the Application. Therefore, two conditions should be included in any approval of the Application to confirm the likely need for a supplemental heating supply and to confirm that the Applicant would not be entitled to require that a certain quantity of waste water

be delivered. Such conditions could read as follows:

- (1) This a water right for waste water and as such, the water right holder has a right only to the quantity of water provided after beneficial use under the primary rights. The water right holder cannot require that the primary right holder(s) waste a specific quantity or temperature of water, nor can the water right holder object to the primary right holder's decision to utilize the water at a different location. The water right holder's right is subject to the prior diversion and beneficial use of the water under Water Right Nos. 63-00012 and 63-00013.
- (2) The place of use should be supplied with a supplemental heating source, since it is unlikely that waste water will be adequate to exclusively heat the place of use.

3. Is the full rate of flow requested justifiable for the purposes intended?

The information presented at the pre-hearing conference suggests that the information used by IDWR in the "Residential Space Heating/Cooling Requirements for Cold or Geothermal Sources" spreadsheet should be further refined, based on the following considerations:

- a. The gross area includes an outdoor central courtyard that is not part of the building to be heated.
- b. It appears that the workshop and garage areas are not intended to be maintained at the same temperature as the living area.
- c. The new construction will not have two stories. The existing living area has a basement rather than a second floor. The efficiency factor assumed by IDWR may need re-evaluation.
- d. Information on the temperature of the waste water needs to be clarified. The pre-hearing conference discussions indicated that the temperature is dependent upon the location of the diversion from the waste ditch.

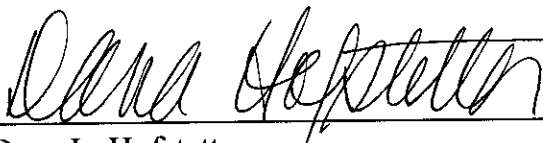
Also, IDWR should consider whether a maximum annual diverted volume should be designated for the new water right.

Conclusion

Since these *Comments* involve applicable legal criteria and IDWR policies for addressing these matters, rather than contested legal or factual issues, Edwards does not believe a hearing is necessary. Rather, these *Comments* are intended to identify issues of concern in the context of applicable law and policy. For the foregoing reasons, Edwards respectfully requests that any approval of the Application be carefully conditioned to protect existing rights and the geothermal resource. Edwards reserves the right to submit additional written comments to respond to other issues that may arise, to provide additional information or to clarify any of the matters in this document.

DATED this 18th day of April, 2005.

HOFSTETTER LAW OFFICE, LLC

By 
Dana L. Hofstetter
Attorney for Edwards Family LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of April, 2005, I caused the foregoing **WRITTEN COMMENTS ON APPLICATION IN LIEU OF HEARING** to be served by the method(s) indicated on the following:

Original to:

Gary Spackman
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☒ Fax

Copies to:

Charles L. Honsinger
Ringert Clark
P.O. Box 2773
Boise, Idaho 83701
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☒ Fax

Garnette Monnie
Edwards Family LLC
322 Sand Creek Street
Boise, Idaho 83703
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Norm Young
ERO Resources Corporation
1106 North Cole Road, Suite C
Boise, Idaho 83704
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax



Dana L. Hofstetter

D:\3006.4\6430



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 4, 2005

FLINDA TERTELING
3623 N 36TH STREET
BOISE ID 83703

Re: Application for Permit, No. 63-31999 in the name of Flinda F. Terteling

Dear Ms. Terteling:

Enclosed, is a Notice of Hearing issued by the department regarding the above-referenced matter. John Westra, IDWR's Western Regional Manager, contacted me today to inform me that Charles Honsinger may not be your representative in this matter. During my review of your file, according to the statements in the June 30, 2004 letter from Mr. Honsinger, I believed that Mr. Honsinger was representing you in this matter.

Therefore, I will mail both you and Mr. Honsinger copies of all documents regarding this matter, unless I am informed otherwise. If you hire an attorney to represent you in this matter, other than Mr. Honsinger, please ask that they give the department a notice of appearance.

You may contact me at (208) 287-4942, if you have additional information.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure

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

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 63-31999)
IN THE NAME OF FLINDA F.)
TERTELING)

NOTICE OF HEARING

PLEASE TAKE NOTICE that a formal hearing will be held on **April 26, 2005 beginning at 9:00 a.m. in Boise, Idaho** will be held at the offices of the Idaho Department of Water Resources, State Office, located at 322 East Front Street, in Conference Rooms C&D.

If you plan to offer exhibits for the record at the hearing, note that Rule 606 of the department's Rules of Procedure requires that a copy be provided to each party and to the presiding officer.

The presiding officer at the hearing will be Gary Spackman.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the adopted Rules of Procedure of the department. IDAPA 37.01.01. A copy of the rules may be obtained from the department upon request.

The hearing will be conducted in accordance with the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within twenty-four hours prior to the hearing. Inquires about scheduling, hearing facilities, etc., should be directed to Deborah Gibson, Administrative Assistant, Idaho Department of Water Resources, P.O. Box 83720, Boise,

Idaho 83720-0098, telephone: (208) 287-4942, fax: (208) 287-6700.

Dated this 3 day of March, 2005.



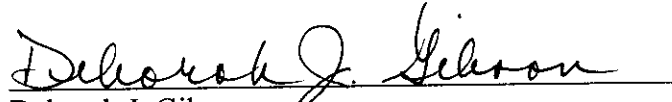
Gary Spackman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of March, 2005, the above and foregoing document 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:

CHARLES L HONSINGER
RINGERT CLARK CHRTD
PO BOX 2773
BOISE ID 83701

EDWARDS FAMILY LLC
DANA L. HOFSTETTER
608 W FRANKLIN ST
BOISE ID 83702

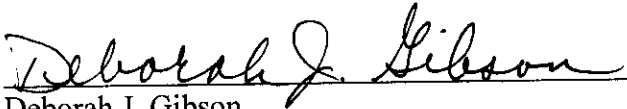


Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 2005, the above and foregoing document 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:

FLINDA F TERTELING
3623 N 36TH ST
BOISE ID 83703


Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Westra, John

From: Westra, John
Sent: Tuesday, March 01, 2005 2:48 PM
To: Spackman, Gary; Gibson, Deborah
Subject: Hearing-- Application for Permit #63-31999 Flinda Terteling

Gary & Debbie

The above referenced application is for waste water heating from the Terteling wells near 36th St. Edwards have protested it. (Dana H. and Norm Y represent the Edwards).
The prehearing conference produced nothing other than we want a hearing-- Terteling VS Edwards.

I would ask that a hearing be scheduled. It looks like **April 26th** fit the calendars of everyone.
It should not take more than one day. Lori Graves can be the hearing assistant from Western

We will send the file to your office.

Call me if you have questions

Thanks

John

Pre-hearing Conference Notes
Application for Permit # 63-31999
Flinda Terteling

From: J. Westra, Western Reg.
Date: 2/23/05
Attendance: See Attached Roster

The meeting opened with the applicant presenting the project details. Mrs Terteling is in the process of building a home on a lot downstream of the Terteling Company property—Geo Wells. She proposes to divert waste water from a ditch that removes geothermal waste from the Terteling Company property—this would be after the primary heat is removed by Tertelings WR. #63-12, 63-13, & 63-15. The water would be routed thru loops in the home flooring and routed back to the ditch 10 ft downstream, no consumption. The Flinda Terteling resident lot is owned by Mrs. Terteling and is not part of Terteling Company operations—two separate ownerships.

The protestant has the following concerns:

- The water has not left control of the Terteling Company,(still on property).
- Terteling Company will intentionally waste water to supply heat for the Terteling residence on demand/need.
- Calculations for heating needs are incorrect.
- Terteling Company is not utilizing geothermal water to agreements/ WRs
- Wants Tom Terteling of Terteling Company to sign agreement to not supply water to Flinda.

There was heated discussion concerning the definition of waste water and usage of the Terteling geo. wells. No agreement or negotiations were made. A hearing date was set for late April.

Comments:

- 63S watermaster jurisdiction not past geo well P/D measurement, no waste water control
- Can Terteling Company even be a party in the contested case—issue for hearing .
- Appears much history with geothermal water WRs--Edwards & Tertelings
- The Tertelings well established there is no connection with Flinda and Terteling Company

Follow-up:

- Check if Terteling Company is in control of water at diversion
- Arrange Hearing Date

Identify Results

1. Address1 - 4N 2E 2S

Shape	Polygon
Pin	S0629417210
Owner	TERTELING COMPANY INC
Address1	3823 N 36TH ST
Address2	
City	BOISE
State	ID
Zipcode	83703-4634
P_address	3823 N 36TH ST, BOISE, ID
P_zipcode	83703-0000
Sub_name	4N 2E 2S

Clear Clear All

Start ArcView GIS 3.2a 10:44 AM



Identify Results

1: Advertisers - HAPPY LAND SUB

Shape	Polygon
Pin	R3452000030
Owner	TERTELING FLINDA F
Address1	5100 CARTWRIGHT RD
Address2	
City	BOISE
State	ID
Zipcode	83714-0000
P_address	3713 N WOODY DR, BOISE, ID
P_zipcode	83703-0000
Sub_name	HAPPY LAND SUB

Clear Clear All

Start ArcView GIS 3.2a 10:45 AM



ROSTER OF ATTENDANCE

IDAHO DEPARTMENT OF WATER RESOURCES 2735 AIRPORT WAY, BOISE, IDAHO 83705

Re: Application for Permit No. 63-31999 in the Name of Flinda E. Terteling

Place: IDWR Western Region, 2735 Airport Way, Boise, Idaho 83705

Date: February 24, 2005

Conducted by: John Westra

NAME

ADDRESS

PHONE

Tom Terteling 3823 N 36th 381-5213

Flinda Terteling 3823 N 36th St 381-5205

Norm Young 5712 Callister 373-7983

- Dana Hofstetter 608 West Franklin, 83702 424-7800

- Garnet Monie Edwards - Arrived late JFW
Greenhouse

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

**IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 63-31999 IN THE)
NAME OF FLINDA E TERTELING)**
_____)

**NOTICE OF PREHEARING
CONFERENCE**

On July 1, 2004 Flinda E. Terteling filed with the Department of Water Resources (IDWR) an application for permit to appropriate the public waters of the State of Idaho. The application was protested by the Edwards Family LLC.

IDWR has scheduled a prehearing conference for the protest to be held on **Thursday, February 24, 2005 at 10:00 am at the Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705**. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Procedure of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules of Water Appropriation of the Department of Water Resources.

The conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise IDWR at least ten (10) days prior to the conference.

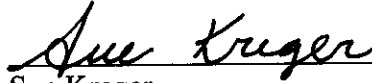
Dated this 6th day of January 2005.



JOHN WESTRA
Western Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 7th day of January 2005, I mailed a true and correct copy, postage prepaid, of the Notice of Prehearing Conference to those listed:

A handwritten signature in cursive script, reading "Sue Kreger", is written over a horizontal line.

Sue Kreger

Administrative Assistant

FLINDA E TERTELING
3623 N 36TH ST
BOISE ID 83703

EDWARDS FAMILY LLC
C/O DANA HOFSTETTER
608 W FRANKLIN ST
BOISE ID 83702

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a preliminary order for the Director's consideration. Parties can file exceptions to a preliminary order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a preliminary order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

January 6, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

EDWARDS FAMILY LLC
C/O DANA HOFSTETTER
608 W FRANKLIN ST
BOISE ID 83702

Re: Application for Permit No. 63-31999 in the Name of Flinda Terteling

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application.

The following are the criteria the department must consider in either approving or denying an application for permit (Section 42-203A, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Enclosed is a Notice of Prehearing Conference scheduled for Thursday, February 24, 2005 at the Western Region of the Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

The department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest prior to the prehearing conference. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

If this office can be of further assistance, please contact us.

Sincerely,

JOHN WESTRA
Western Regional Manager

JW:sk

Encl: Copy of Application
Notice of Prehearing Conference



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

January 6, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

FLINDA TERTELING
3623 N 36TH ST
BOISE ID 83703

Re: Application for Permit No. 63-31999

Dear Applicant:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to the above-referenced application.

The following are the criteria the department must consider in either approving or denying an application for permit (per Section 42-203A, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Enclosed is a Notice of Prehearing Conference scheduled for Thursday, February 24, 2005 at the Western Region of the Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

The department suggests you contact the protestant(s) directly in an effort to determine what is in dispute in the application and to attempt to resolve the protest. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

Please contact this office if you have questions regarding this procedure.

Sincerely,

JOHN WESTRA
Western Regional Manager

JW:sk

Enclosure: Copy of protest(s)
Notice of Prehearing Conference

HOFSTETTER LAW OFFICE

608 West Franklin Street
Boise, Idaho 83702

Dana@IdahoWaterLaw.com

Dana L. Hofstetter
Attorney at Law

Telephone: (208) 424-7800
Facsimile: (208) 424-8774

January 4, 2005

RECEIVED

JAN 05 2005

WATER RESOURCES
WESTERN REGION

Via Facsimile and U.S. Mail

John Westra
Western Regional Manager
Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Re: Application for Permit No. 63-31999 in the Name of Flinda Terteling

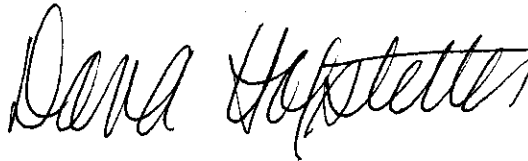
Dear Mr. Westra:

Regarding your letter of December 16, 2004 in the above-referenced matter, enclosed please find calendars for February and March 2005 with dates of Edwards Family LLC's **unavailability** marked with X's.

Thank you for your assistance with this matter, and if you have further questions or comments, please do not hesitate to contact me.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosures
3006.4/6260

February

2005

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

March

Sat

Fri

Thu

Wed

Tue

Mon

Sun

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2005

Kreger (Taylor), Sue

From: legals [legals@idahostatesman.com]
Sent: Wednesday, September 29, 2004 3:35 PM
To: Kreger (Taylor), Sue
Subject: Re: 14 legal ads

What are you trying to do to me? Make me work? They will ALL run as requested, thanks,

--

Janice Hildreth
The Idaho Statesman Legal Ads Dept.
ph. 377-6306; fx: 377-6309
email: legals@idahostatesman.com

> From: "Kreger (Taylor), Sue" <skreger@idwr.state.id.us>
> Date: Wed, 29 Sep 2004 14:36:42 -0600
> To: "'legals@idahostatesman.com'" <legals@idahostatesman.com>
> Subject: 14 legal ads

>

>

> Hi Janice. I have 14 legal ads this week. (I don't know where they all came from).

>

> Thanks,

>

> Sue

>

>

> <<10-25-04 is.doc>>

>



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 18, 2004

Flinda Terteling
5100 Cartwright Rd
Boise ID 83703

Re: Application For Permit

Dear Flinda:

Thank you for responding to my letter dated July 14, 2004. As stated in my previous letter, due to continued drought and to protect existing rights, applications proposing new consumptive uses of public water have not been processed in the Treasure Valley since 1992. The evaporative loss from the concrete pond is considered consumptive and will need to be mitigated in order for processing to proceed.

An alternative you may wish to consider is amending the application to list only heating as a use, which is considered non-consumptive because of the enclosed pipe system. Instead of using the wastewater to fill the concrete ponds, which is consumptive and requires mitigation, use municipal water.

Please complete the enclosed heating worksheet and submit with either an amended application or a mitigation plan. For the designed energy efficiency of the building, please choose from values provided on the worksheet.

Please submit the above requested information within thirty (30) days of the date of this letter. If the information is not timely submitted, the application will be removed from the records of this agency. Thank you for your attention to these matters, and please contact me at 334-2190 if you need more information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lori Graves'.

Lori Graves
Sr. Water Resource Agent

Enclosure

August 13, 2004

RECEIVED
AUG 16 2004
WATER RESOURCES
WESTERN REGION

Lori Graves
Sr. Water Right Agent
Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Flinda Terteling Application

Dear Lori:

Below is the information you requested in your letter to Charlie Honsinger dated July 14, 2004.

1. Development Plan

- A.) Estimated square footage of the building – 5,000 SF
- B.) Inside design temperature of the building – house 72 degrees; garage/shop 60 degrees
- C.) Designed energy efficiency value for the building – house R40; garage R20
- D.) Water source temperature – est. 100 degrees
- E.) Water discharge plan – into the same small canal
- F.) Type and/or model of heat exchanger – 1st a coil direct; 2nd tubing in floor in house; 3rd tubing in floor of garage; 4th into concrete pond w/evaporation loss only.

2. Mitigation Plan – The uses (other than evaporation loss) are non consumptive in that the water will come from the small canal that borders the property on the north and discharged in to the same canal after running through tubing and concrete pond.

3. Application Fee – attached based on flow. Please note that we reviewed the quantity requested and changed the amount on the permit. I initialed the changes.

Attached is a site plan of the project. Red indicates enclosed pipe and blue is concrete ponds.

Please address any future correspondence to me at 3823 N. 36th Street, Boise, ID 83703. I can also be reached at 381-5205 or 859-9906.

Sincerely,


Flinda Terteling

Enclosures

RECEIVED

AUG 12 2004

WATER RESOURCES
WESTERN REGION

Laura E. Burri
Jeffrey R. Christenson
David P. Clalborne
D. Blair Clark
Michael J. Doolittle
S. Bryce Farris
David Hammerquist
Charles L. Honsinger
Joseph B. Jones
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid
Daniel V. Steenson
Allyn L. Sweeney

William F. Ringert, of Counsel
Samuel Kaufman (1921-1986)

August 11, 2004

Lori Graves
Idaho Dept. of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Flinda Terteling Permit Application

Dear Lori:

As we discussed earlier today, my client is aware of the information IDWR needs to process the above referenced permit application as set forth in your letter of July 14, 2004. However, as I explained earlier today, my client has been away from Boise for approximately two weeks. Based upon my client's absence, I request an additional twenty (20) days to provide the information you requested in your July 14, 2004 correspondence. It is my understanding that unless I hear otherwise from you, my request is to be deemed granted. Thank you.

Sincerely,



Charles L. Honsinger

cc. Client
Ed Squires



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 14, 2004

Charlie Honsinger
455 S 3rd St
PO Box 2773
BOISE ID 83701

Re: Flinda Terteling Application

Dear Charlie,

An Application for permit for diversion of wastewater was received from you July 1, 2004 in the name of Flinda Terteling. Due to continued drought and to protect existing water rights and water supplies, applications proposing new consumptive uses of public water have not been processed in the Treasure Valley since 1992. Processing of this application is possible if the following information is provided:

1. **Development Plan.** To determine if the rate of flow requested for heating is sufficient or excessive, please provide the following information using the enclosed energy efficiency rating table:

- A.) Estimated square footage of the building.
- B.) Inside design temperature of the building.
- C.) Designed energy efficiency value for the building.
- D.) Water source temperature.
- E.) Water discharge plan.
- F.) Type and/or model of heat exchanger.

2. **Mitigation Plan.** Surface waters tributary to the Boise River system upstream from Star Bridge are considered fully appropriated by existing water rights. Please provide mitigation for the consumptive uses proposed or explain how the uses are non-consumptive.

3. **Application Fee.** A fee was not submitted with the original application July 1, 2004. Please provide the appropriate application fee.

Terteling

7/14/2004

Page 2

Please submit the above requested information within thirty (30) days of the date of this letter. If the information is not timely submitted, the application will be removed from the records of this agency. Thank you for your attention to these matters, and please contact me at 334-2190 if you need more information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori Graves".

Lori Graves

Sr. Water Right Agent

Enclosure

RECEIVED

JUL 01 2004

WATER RESOURCES
WESTERN REGION

Laura E. Burri
Jeffrey R. Christenson
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Jennifer Reid Mahoney
James G. Reid
Daniel V. Steenson
Allyn L. Sweeney

William F. Ringert, of Counsel
Samuel Kaufman (1921-1986)

June 30, 2004

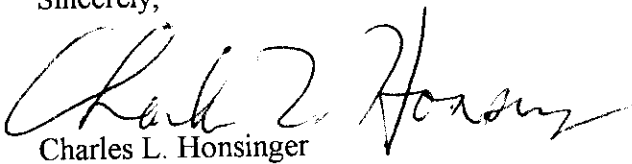
John Westra
Western Regional Manager
Idaho Dept. of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Permit Application

Dear Mr. Westra:

Enclosed herewith please find an Application for Permit that I submit on behalf of my client, Flinda Terteling. Please process the Application as soon as possible, and contact me with any questions or concerns.

Sincerely,


Charles L. Honsinger

enclosure

cc: Clients

December 17, 2003

APPLICATION RESEARCH

Completed by Sharla Date 4/19/04

Add reviewer's initials Lori to APPS.LIS and SAVE, forward file to reviewer after research completed.

Check items #1 through #4 unless otherwise noted.

RESEARCH ITEMS

1. ☒ Corporation, partnership or other business entity: conduct Business Entity search at ID Sec. of State website and list results:

C21391 registration # _____ not registered

2. ☒ Gov't Lots, attach results if any in the entire section(s). Use most recent survey found on microfiche.

3. _____ P/D overlap, existing/proposed site(s). Attach results or summarize here.

_____ none _____ see attached

4. _____ P/U overlap, existing/proposed site(s). Attach results or summarize here.

_____ none _____ see attached

Additional Notes to Reviewer

_____ SRBA N/A _____ SRBA Reviewer for AJ Record in "active" basin

A63-12, 13, 15 = 95ms but

12A.B
13A.B
15A.B } = AJ shelves

check with JAN

proposed well hot water? in 635 boundary?

what issues if yes?

Boise Front ground issues?

Any wells outside of 63-5? implications if any? status of last exten... completed work in authorized period?

Lori is already up on this but see if she needs additional research

contracts & this should only be Applicant in Attorney, not consultant. Let me know if it starts inquiries & processing.

Ada Co.

SL 4/19/04

No. C 21391		Due no later than February 29, 2004 Annual Report Form		2. Registered Agent and Office NO PO BOX	
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080		TERTELING COMPANY, INC. (THE) J. L. TERTELING 3823 N 36TH STREET BOISE, ID 83703		J. L. TERTELING 3823 N. 36TH STREET BOISE, ID 83703	
NO FILING FEE IF RECEIVED BY DUE DATE				3. New Registered Agent Signature	
4. Corporations: Enter Names and Business Addresses of President, Secretary and Directors.					
<u>Office held</u>	<u>Name</u>	<u>Street or P.O. Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
Director & President	J. L. Terteling	3823 N. 36th St.	Boise, ID	83703	
Director	J. K. Gallagher	3823 N. 36th St.	Boise, ID	83703	
Secretary & Exec. Vice President	F. F. Terteling	3823 N. 36th St.	Boise, ID	83703	
5. Organized Under the Laws of:		6. Signature <i>J. L. Terteling</i>		Date <i>16 DEC 03</i>	
IDAHO C 21391		Name <i>J. L. TERTELING</i>		Title <i>PRESIDENT</i>	
Issued 12/01/2003		Do Not Tape or Staple		3943	

RECEIVED

APR 12 2004

**WATER RESOURCES
WESTERN REGION**

April 9, 2004

Mr. Steve Lester
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Laura E. Burri
Jeffrey R. Christenson
David P. Claiborne
D. Blair Clark
Michael J. Doolittle
S. Bryce Farris
David Hammerquist
Charles L. Honsinger
Joseph B. Jones
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid
Daniel V. Steenson
Allyn L. Sweeney

William F. Ringert, of Counsel
Samuel Kaufman (1921-1986)

Re: Application to Transfer Water Right Nos. 63-12, 63-13, 63-15

Dear Steve:

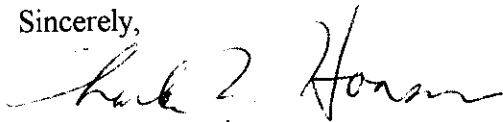
Enclosed please find a transfer application that I file on behalf of my client, the Terteling Company. I also enclose the required processing fee of \$250.00.

As you will see, the application provides for additional points of diversion for water right nos. 63-12, 13, 15. To promote understanding with Edwards Greenhouses, a protestant to a previous Terteling Company transfer, we have provided a copy of the application to Dana Hofstetter, who represents Edwards Greenhouses, and discussed the same with her. We are hopeful that, as a result of our discussions with Ms. Hofstetter, Edwards will not protest this filing.

The purposes for the filing are to ensure that geothermal water can be diverted from Motorcycle Hot well, and to provide back-up and flexibility to the existing geothermal diversion and delivery system which has already been constructed for that purpose. Of course, my client will continue to closely monitor geothermal water diversions as it is required to do, and will continue to provide IDWR with monitoring data.

Please contact me with questions about the transfer. To the extent that protests to this transfer are filed, we request that you immediately set the matter for a prehearing conference to schedule a hearing and discuss a discovery schedule. Thank you.

Sincerely,



Charles L. Honsinger

enclosures

cc: Tom Terteling
Ed Squires
Dana Hofstetter

Idaho Department of Water Resources Receipt

Receipt ID W032339

Payment Amount	\$25.00	Date Received	10/25/2004 2:37:50 PM	Region	Western	Status	
Payment Type	Check	Check Number	2604				

Payer HOFSTETTER, DANA L

Comment NOTICE OF PROTEST: 63-31999 TERTELING

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$25.00	PROTESTS	0229	21	62103	1155



Signature Line (Dept. Representative)



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 16, 2004

DANA HOFSTETTER
608 W FRANKLIN ST
BOISE ID 83702

RE: Application for Permit No. 63-31999 in the Name of Flinda Terteling

Dear Ms. Hofstetter:

IDWR will soon be scheduling a prehearing conference in the above referenced matter. Enclosed are calendars for the months of February and March. Please mark dates you are **unavailable** during the two months and return them within two weeks of receiving this letter. After the expiration of two weeks, this office will shortly schedule a conference if the matter is not resolved informally. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

Please contact this office if you have questions regarding this procedure.

Sincerely,

JOHN WESTRA
Western Regional Manager

JW/sk

Encl.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

OCT 25 2004

WATER RESOURCES
WESTERN REGION

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Application for Permit No. 63-31999 in the Name of Flinda F. Terteling.
2. Name of protestant Edwards Family LLC.
3. Protestant's Representative for service (If different than protestant)
Dana L. Hofstetter, Hofstetter Law Office, LLC.
4. Service mailing address 608 West Franklin Street, Boise, Idaho 83702.
5. Service telephone no. (208) 424-7800.
6. Basis of protest (including statement of facts and law upon which the protest is based)

The Application does not include sufficient information to fully evaluate the potential impacts to District 63-S and its water right holders and the need for the quantity requested. Protestant reserves the right to identify additional concerns as further information becomes available

(additional pages may be attached to describe nature of the protest)

What would resolve your protest? Information about the proposed use that would allow a full evaluation of potential impacts to Water District 63-S and its water right holders; and appropriate conditions, as needed, to address any such impacts.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 25th day of October, 2004.

Protestant

Dana Hofstetter

Protestant's Representative

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

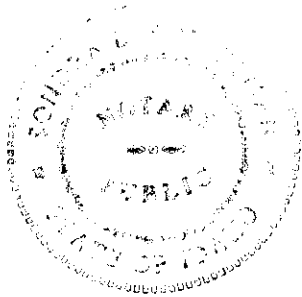
Received by AB Date 10/25/04 Time 2:35
\$25.00 fee Received by AB # W032339 Date 10/25/04

✓sk RECEIVED
OCT 15 2004

WATER RESOURCES
WESTERN REGION

Account #	DTI#	Identification	Amount:
047628	1168264	APPLICATION - TERTELING	\$103.00
Attention:	P.O. #	Run Dates	
SUE KREGER		OCTOBER 7, 14, 2004	
IDAHO DEPT. WATER RESOURCES WEST		Number of Lines	
2735 AIRPORT WY.		2 X 28	
BOISE, ID 83705		Affidavit	Legal #
		1	20551

Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires:



Kreger (Taylor), Sue

To: eleitzin@idfg.state.id.us
Subject: comment letters

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

September 30, 2004

ERIC LEITZINGER, IDFG
PO BOX 25
BOISE ID 83707

Re: Applications for Permit

Dear Eric:

Enclosed are copies of applications for permit. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of any of these applications, your written protest along with the \$25.00 protest fee for each application protested, must be received in this office by October 25, 2004.

If you have any questions regarding these applications, please contact this office at 334-2190.

Sincerely,

Sue Kreger
(208) 334-2190
Id Dept Water Resources
skreger@idwr.state.id.us



67-14489.pdf



67-14490.pdf



63-31999.pdf



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 30, 2004

BOISE CITY CANAL CO
PO BOX 2157
BOISE ID 83701-2157

Re: Water Right Application(s)

Enclosed is a copy of an application(s) that may be of interest to you. Please review the application(s) submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if you desire to file a formal protest against the approval of this application(s), your written protest along with the \$25.00 protest fee must be received in this office by October 25, 2004.

If you have any questions regarding the application, please contact this office.

Sincerely,

A handwritten signature in cursive script that reads 'Sue Kreger'.

Sue Kreger
Administrative Assistant

Encl. Copy of Application

**IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705**

September 29, 2004

Legal Notice Department
IDAHO STATESMAN
PO BOX 40
BOISE ID 83707

RE: Application for Permit Nos. 63-31811, 63-31812, 63, 31813, 63-31814, 63-31859, 63-31890,
63-31974, 63-31975, 63-31999

Application for Transfer Nos. 71237, 71109, 70947, 71198, and 71357

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 10/25/2004. Your cooperation is appreciated.

Sincerely

Sue Kreger
Administrative Assistant

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-31999

FLINDA F TERTEILING
3623 N 36TH ST
BOISE ID 83703

Point(s) of Diversion NESE S29 T04N R02E ADA County Source WASTE WATER

Tributary To BOISE RIVER

Use: HEATING 01/01 To 12/31 0.11 CFS

Total Diversion: 0.11 CFS

Date Filed: 08/16/2004

Place Of Use: HEATING

T04N R02E S29 NESE

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 10/25/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Idaho Statesman on October 7 and 14, 2004.