

February 20, 2004

Mr. L. Glen Saxton, P.E.
Administrator
Water Management Division
Department of Water Resources
1301 N. Orchard Street
Boise, ID 83720-0098

RECEIVED
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WATER RESOURCES
WESTERN REGION

Re. Request for Administration of the "Stralow" Low-Temperature Geothermal Well.

Dear Mr. Saxton:

I represent The Terteling Company (TTCI), the owner of water rights numbers 63-12, 63-13, and 63-15, all within State Water District 63-S. These water rights are associated with the original Silkey and Tiegs wells (more recently known as The Flora Co. wells) and the geothermal wells of the Terteling Ranch in the Boise foothills. The purpose of this correspondence is to inform you of my client's concerns with respect to the "Stralow" well (63-5195), and to request IDWR action to protect the geothermal resource and my client's water rights.

I. The Terteling Company's Activities in Water District 63-S

Since the aquifer pressure draw downs and subsequent administration of geothermal water rights in Stewart Gulch during the late 1980's, TTCI has actively pursued measures to alleviate water rights disputes within State Water District 63-S. These measures include, but are not limited to, the following:

- 1) Location and development of a cold temperature groundwater source for irrigation of the Terteling Ranch which replaced irrigation use formerly accomplished with geothermal water.
- 2) Purchased and transferred low-temperature geothermal water rights
 - a. To move interference effects away from Hill Road users.
 - b. To provide useable water rights for geothermal uses at the Terteling Ranch.
- 3) Worked to reactivate State Water District 63-S.
- 4) Sponsored the development of a monitoring plan for the BFGWMA.
- 5) Active participant in the 2003 IDWR/TWRI Geothermal Aquifer Study.
- 6) Instituted its own comprehensive monitoring and reporting plan for District 63-S.

II. Inspection of the Stralow Well

On March 11, 2003, I accompanied Ken Neely of your office on a site inspection of the "Stralow" geothermal well located at 3911 Whitehead Street in Boise. To our surprise, we found that the well was not equipped with any means to monitor either flow or artesian pressure. Observations from our reconnaissance visit include the following:

- 1) The Stralow well is a 4-inch diameter steel cased well located in a small outbuilding on the 3911 Whitehead Street property.
- 2) The Stralow well is not equipped with a well head control valve to regulate flow.
- 3) The well is not equipped with a flow-meter or flow volume accumulator.
- 4) The well was not equipped with a pressure gage or plumbing fittings to attach a pressure gage at the well head.
- 5) At the time of our visit, three homes were being served with low-temperature geothermal water from the well.
 - a. According to George Andrade, whose family had occupied the house for 6 years, only four homes had been hooked up since he moved in; this comports with my notes from an interview with Mr. Andrade some 4 years earlier (1999).
 - b. One 2-inch line serving the "Johnson" house and three ¾ -inch lines serving the Andrade (Stralow), Nelson, and Miller residences.
 - c. The Nelson residence had recently been sold and was, at the time of our visit, unoccupied and under reconstruction.
 - d. According to Helen Miller, a Stralow well geothermal water user, and whose property is located at 4023 Whitehead Street, the well has not had more than the four existing users since she moved in to her house in 1978.
- 6) Geothermal water was being discharged to the drainage ditch at the back of the residences.
- 7) An outside irrigation spigot, connected to the geothermal well, was left open and running geothermal water for no purpose at the Nelson residence.

Last week, TTCI learned that the Stralow residence, formerly occupied by the Andrade family, has been recently remodeled and is currently for sale by a Mr. Ed Altman. According to Helen Miller, Mr. Altman intends to construct a second residence at the rear of the Stralow lot and to plumb the new house for geothermal heat using the Stralow well as a source for geothermal water. This, of course, is unacceptable to my client (and

presumably similarly unacceptable to all other geothermal water users in District 63-S), because of the additional burdens such development will place on the finite geothermal resource in District 63-S.

III. Prior Department Orders and Correspondence

The Final Order issued In the Matter of the Creation of Water District 63-S, Stewart Gulch states in part that:

3 The owners of wells used for the diversion of low temperature geothermal water within the district shall install flow measuring devices and the rate of flow and volume of pressure measuring equipment acceptable to the Department for the measurement of the rate of flow and volume of water diverted from their respective wells. Such devices and/or equipment shall be installed on or before April 1, 1990.

(Emphasis added). Your December 5, 1989 letter to Ray F. Stralow (see attached) specifically notifies Mr. Stralow of the Order's monitoring requirements:

Note that the order requires the installation of measuring equipment on or before April 1, 1990. The Department will provide technical advice upon request relative to the needed equipment. The measuring equipment, however, shall be of a type acceptable to the department to monitor the following parameters:

1. Instantaneous rate of withdrawal and cumulative volume withdrawn.
2. Well head temperature.
3. Well head pressure or draw down.
4. Closed-in pressure or water level when the well is not being used.

The Stralow well is the sole point of diversion for water right No. 63-5195, a statutory claim for 0.84 cfs for domestic and heating purposes. The current owner is listed in IDWR's records as Kimberly and Sherman A. Nelson. Donald V. Shaff of the Department's Adjudication Section wrote Mr. Stralow on March 9, 1990 about his SRBA Notice of Claim. Many of the problems described in Mr. Shaff's letter (see attached) are shared by my clients. These concerns include, but are not limited, to the following:

- 1) The claimed priority of the Stralow right is incorrect and, as claimed, precedes the *Silkey v Tiegs* Decree.
 - a. The Stralow well was almost certainly drilled after the Silkey, Tiegs, Edwards, and Ryan wells were drilled, because the Stralow well would have been included in the lawsuit initiated by Silkey which resulted in the *Silkey v. Tiegs* decree had it been in existence at that time.
 - b. The well may have been used to heat the Johnson house prior to the 1950's, but the other homes could not have been heated with geothermal water started until the Stralow house was built (1955?).
- 2) The amount of water claimed (0.84 cfs) is more than the quantity diverted by major local commercial water users pursuant to their valid, confirmed water rights.

- 3) The use of water from the Stralow well is not domestic, but rather used by numerous homes connected to a single well, in apparent violation of I.C. §42-111(3).
- 4) Only four homes have been connected to the well for at least the last 25 years.
- 5) The diameter and depth of the Stralow well is such that, if it is unregulated and allowed to flow unabated, it is most likely equal in yield to the other wells of the larger commercial water users of the District who also have 4-inch diameter wells.
- 6) The water users of the Stralow well are within Water District 63-S
- 7) The Stralow well users have not complied with either Department or Water District requirements despite numerous written notifications and requests. Specifically, they are violating the Final Order's mandate to install monitoring equipment which measures flow, pressure, and volume.

IV. The Terteling Company's Requests

TICI and its predecessor, the Flora Co., have been unable to obtain their water rights under the natural artesian flowing conditions protected by the *Silkey v. Tiegs* decree for some years now. While the department has curtailed other confirmed water right holders in District 63-S, the Stralow statutory claim has not been curtailed, nor have monitoring requirements been enforced.

Accordingly, and on behalf of the TICI, I formally request that the department carry out the following actions:

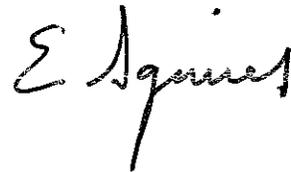
- 1) Prevent additional houses from being connected to the Stralow well.
 - a. Water master to visit well and sign well head accordingly.
 - b. Water master to notify current users of no additional use.
- 2) Limit the flow rate and volume of the Stralow well to a domestic geothermal amount.
- 3) At the end of the current heating season, administer the Stralow water right by enforcing the installation of monitoring and control devices as required by the Final Order.
- 4) Instruct the water master of District 63-S to measure and report Stralow well water use and aquifer pressures.

- 5) Take all reasonable additional steps to preserve the above ground artesian pressures and flows from my client's wells that are protected under the *Silkey v. Tiegs* decree.

I ask that a copy of this letter be placed in the water right and Snake River Basin Adjudication files for water right No. 63-5195. My clients believe that these measures are those required under Idaho law, and are necessary to protect both their water rights and other Water District 63-S water users. Please feel free to contact me to discuss this matter.

Respectfully,

Ed Squires
Hydro Logic, Inc.
342-8369



- c: Tom Terteling, ICCI
Ken Neely, Water master, District 63-S
Steve Lester, Water Rights Supervisor, IDWR Western Regional Office
District 63-S water users (at the March 11, 2004 District meeting).
Charles H. Honsinger, Ringert Clark Chartered Lawyers



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

December 5, 1989

Ray F. Stralow
3911 Whitehead
Boise, ID 83703

Dear Mr. Stralow:

RE: WATER DISTRICT 63-S, STEWART GULCH

Enclosed is a memorandum decision and order which creates the above referenced water district. The intent of the order is to manage the low temperature geothermal water resource (not the cold water) in the area.

Note that the order requires the installation of measuring equipment on or before April 1, 1990. The department will provide technical advice upon request relative to the needed equipment. The measuring equipment, however, shall be of a type acceptable to the department to monitor the following parameters:

1. Instantaneous rate of withdrawal and cumulative volume withdrawn;
2. Well head temperature;
3. Well head pressure or drawdown;
4. Closed-in pressure or water level when the well is not being used.

The question of the applicability of the reasonable pumping level provisions of the Idaho Code and the authority granted the department by Section 42-237a, Idaho Code, remain before the department and will be addressed in a separate action.

Please feel free to contact the department if you have questions.

Sincerely,

A handwritten signature in cursive script that reads 'L. Glen Saxton'. The signature is written in black ink and is positioned above the typed name and title.

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: IDWR - W. Region



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

March 9, 1990

Raymond F. Stralow
3911 Whitehead
Boise, ID 83703

Re: Snake River Basin Adjudication (SRBA)
Claim A63-05195 Ada County

Dear Mr. Stralow,

After you submitted your Notice of Claim to Water Right in July 1989, you provided to Mr. Saxton in this office a historical summary of the development and use of water from the well on your property. The purpose of this letter is to solicit further supporting documentation or evidence for your claim in light of this agency designating the Boise Front Low Temperature Geothermal Resource Ground Water Management Area.

Although the owner of the Church well, as you called it in the summary, may not have been a party to the Silkey law suit, the January 1, 1900, priority date you claimed would substantially precede the priority dates determined for the surrounding wells in that law suit. The summary contradicts the priority date you submitted on the claim.

For the size of the well described in the summary, you have claimed a large amount of water. A total discharge of almost 377 gallons per minute would be almost as large or larger than any of the Hunt Brothers, Edwards or Ryan wells. This element of the water right will be verified by a field inspection later in the adjudication, but I thought you would want to be aware of our concerns at this date.

Lastly, I would like to address the process of placing the water from the well to beneficial use. Your summary indicates that with the initial development of the well, the use of the water for a long period of time was less than the existing or previous extent of use for up to six homes. This could be interpreted as the presence of more than a single water right for use in the homes. Would you please provide this office with more extensive detail on the date each home was connected to the system and the amount of water diverted to accomplish any expansions of the delivery system?

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AUG 21 1992