

10/20/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 22-2195B

NAME AND ADDRESS: MONA WALTERS
W JEFFERY WALTERS
SHAWN WALTERS
PATRICE WALTERS
PO BOX 156
NEWDALE ID 83436

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.490 CFS
539.00 AFY

PRIORITY DATE: 12/11/1960

POINT OF DIVERSION:
T06N R41E S14 SESENW Within MADISON County
T06N R41E S22 SWSWNE Within MADISON County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/01 10/31	1.490 CFS 539.00 AFY
PLACE OF USE:	<u>IRRIGATION Within MADISON County</u>		
	T06N R41E S13 NENW 40.00	T06N R41E S13 NWNW 40.00	
	T06N R41E S13 SWNW 39.00	T06N R41E S13 SENW 39.00	
	T06N R41E S14 NENE 40.00	T06N R41E S14 NWNE 40.00	
	T06N R41E S14 SWNE 39.00	T06N R41E S14 SENE 39.00	
	T06N R41E S14 NENW 40.00	T06N R41E S14 NWNW 39.00	
	T06N R41E S14 SWNW 39.00	T06N R41E S14 SENW 40.00	
	T06N R41E S15 NESE 40.00	T06N R41E S15 NWSE 40.00	
	T06N R41E S15 SWSE 40.00	T06N R41E S15 SESE 40.00	
	T06N R41E S22 NENE 40.00	T06N R41E S22 NWNE 40.00	
	T06N R41E S22 SWNE 40.00	T06N R41E S22 SENE 40.00	
	T06N R41E S22 NESE 40.00	T06N R41E S22 NWSE 40.00	
	T06N R41E S22 SWSE 40.00	T06N R41E S22 SESE 40.00	

954 ACRES TOTAL

This right is limited to the irrigation of 154 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 954 acres in a single irrigation season. Combined Right Nos.: 22-2195B, 22-7010, 22-7048, 22-7050, 22-13516.

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Right Nos. 22-2195B, 22-7010, and 22-7050 are also diverted through point of diversion described above.

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

Law Offices

RIGBY, ANDRUS & MOELLER
Chartered

Ray W. Rigby
G. Rich Andrus
Jerry R. Rigby
Michael S. Kam (1954-2001)
Gregory W. Moeller
Hyrum D. Erickson

P.O. Box 250
25 North Second East
Rexburg, ID 83440

Telephone: (208) 356-3633
Fax: (208) 356-0768

September 19, 2008

Michael Holliday
Idaho Department of Water Resources
900 North Skyline, Ste. A.
Idaho Falls, ID 83402

RECEIVED

SEP 22 2008

Department of Water Resources
Eastern Region

RE: Jeff & Shawn Walters Subcases 22-2186; 2195B & 13596

Dear Michael:

As to 22-2186, per the initial meeting discussion, attached please find the following:

1. A signed affidavit from Eric Walz verifying the agreement with Layne Harris that the water was reserved by the original seller to Harris and all of the right granted to Walz (who in turn sold to Jeff & Shawn Walters).
2. A signed affidavit from Jeff Walters verifying that Layne Harris has not used the water and that the understanding they have had was that the entire water right was sold to the Walters and has been used by them since.
3. Notes from Skip which evidences that the original water right was NOT used or recognized on the Harris lands and that Harris actually applied for his own independent water right on his lands.
4. Two different letter in the Harris water right BAK file (22-7397) which substantiate that the original water right was clearly NOT sold to Harris without water and therefore not used on the Harris lands. It also substantiates that the application for water on those lands was independent from the Walz lands and water right 22-2186. Furthermore, the Harris application and entire file recognizes that it does not claim an interest in 2186 even though they claim that they have been shorted water from their application by IDWR.

Michael Holliday
September 19, 2008
Page - 2

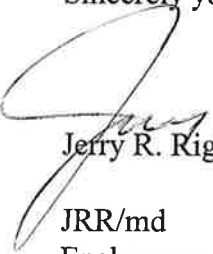
5. Finally a front and back scan of a picture taken in 86 which evidences the circle tracks over the lands you were concerned with as to being watered. In fact, the unwatered lands were in CRP during those years and that is why they show up as less then irrigated and also why they were originally recommended. Basically, the balance of the original 2186 water right is presently un-recommended.

As to 2195B, I understand that you were going to look at the file and see if you would be willing to recommend the additional 4 acres in order to insure that all lands are covered with the various water rights as they are commingled and stacked anyway since well before 87 and therefore would qualify as an enlargement to the original license of the 154 acres by 4 acres.

Finally as to 13596, although I don't recall us dealing with this one in detail and the initial hearings, I believe that the objection filed by us sets forth the math we used to determine that the right needed to be increased to .4 (from .27) as an appropriate proration. Please review our math contain in the objection and let me know if you agree.

After you have reviewed the enclosed documents and the records in the two water rights, please let me know if you anything addition in order to verify that the entire 2186 water right may go on the acreage owned by the Walters. Otherwise, I believe that this clearly fits the provisions of the "accomplished transfer" statute and should be recommended on the Walters property only.

Sincerely yours,



Jerry R. Rigby

JRR/md

Enclosures

Cc: Ernie Carlson

F:\WP6\SB\WALTERSS.L10

Department of Water Resources

Eastern Region



Claim No.: 22-2195B and 22-7010



0 0.25 0.5 0.75 1 Miles

- Point of Diversion
- Place of Use
- Township/Range
- Sections
- QQ



GIS Place of Use Illustration
1987/88 NAPP Photography
Prepared by: Kristin Moore
Date Prepared: January 2006

WATER LICENSE

Water License No. G-29151/22-2195 Priority December 11, 1960 Amount 4.46 c.f.s.
(late proof)

THIS IS TO CERTIFY, that T. O. BIRD
of Rexburg, Idaho, made application for a permit to appropriate the public waters of
the State of Idaho, dated November 21, 1960; that Permit G-29151/22-2195 was issued pursuant
to said application; that the proposed works were completed on or about Spring 1962,
with a storage/or carrying capacity of 4.46 c.f.s., said works consisting of
well, pump, and motor; and that on December 17, 1965
proof was made to the satisfaction of the State Reclamation Engineer, of the beneficial use of 1601
acre feet per season, with a maximum rate of diversion of 4.46 cubic feet per second of the waters
of ground water, tributary of _____,
for the purpose of Irrigation from April 1 to October 31,
and for _____ from _____ to _____; and for
_____ from _____ to _____; and that the use
of said waters has been made in accordance with the laws of Idaho, and is hereby confirmed by the State Recla-
mation Engineer and entered in the records of the Idaho Department of Reclamation: the point of diversion is
located in SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 15, T. 6 N, R. 41 E, B.M., and
other additional points _____, in the County of
Madison; and that the amount of water to which such right is
entitled and which is hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially
used for said purposes and shall not exceed 1601 acre feet per year.

Description and location of place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
<u>6 N</u>	<u>41 E</u>	<u>14</u>					<u>39</u>	<u>39</u>	<u>38</u>	<u>38</u>									<u>154</u>
		<u>15</u>	<u>38</u>	<u>37</u>	<u>38</u>	<u>38</u>	<u>37</u>	<u>39</u>	<u>39</u>	<u>38</u>									<u>304</u>

Total number of acres irrigated 458

The right to the use of the water hereby confirmed is restricted to the lands or place of use herein described,
as provided by the laws of Idaho.

Witness the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this

4th day of August, 1969

[Signature]
State Reclamation Engineer

22 2195

29151
22-2195

SCANNED

AUG 15 2007

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
	<u>A22-2195B Y</u>				

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)

Michael R. Howard
Box 73 Newdale, ID 83436

4. New Owner/Claimant(s)

W. Jeffrey Walters Mona Walters Shawn J. Walters Patrice Walters
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

P.O. Box 156

City, State and ZIP Code

Newdale, ID 83436

New Telephone Number

(208) 458-4105

5. Date you acquired the property

April 28, 1990

SCANNED

AUG 15 2007

*Rec'd EDWR
 01/09/06 ASR
 c/o Dore 01/06/09
 ASR*

234412

COPY

WARRANTY DEED

FOR VALUE RECEIVED, ANTHON PRICE, as Personal Representative of the Estate of GLENA PRICE, deceased, of 7471 Road 170, Basin City, Washington 99343; GAR CALAWAY, of Star Route, Eltopia, Washington 99330; VAL CALAWAY, of 2290 S.W. G Road, Mattawa, Washington 99344; and SHIRLA WHITBY, of 62 W. Juniper, Mesa, Washington 99343, hereinafter called "Grantor", does hereby grant, bargain, sell and convey unto W. JEFFREY WALTERS and MONA WALTERS, husband and wife, of 990 Westwood Drive, Rexburg, Idaho 83440, and SHAWN J. WALTERS and PATRICE WALTERS, husband and wife, of 375 Church, Newdale, Idaho 83436, hereinafter called "Grantee", the following described real property in Madison County, Idaho, to-wit:

NW1/4 of Sec. 14, Twp. 6 N., Rge. 41 E., Boise Mer., saving and excepting therefrom: Commencing at the SE corner of the NW1/4 of Sec. 14, Twp. 6 N., Rge. 41 E., Boise Mer. and running thence West 100 feet; thence North 100 feet; thence East 100 feet; thence South 100 feet, to the point of beginning.

TOGETHER WITH the following described irrigation water rights:

(1) Under License # A22-02195A, 1.49 cfs with priority of December 11, 1960. There is no transfer of the well, pump, and mainline at the present point of diversion; Grantee must provide his own well, pump, and mainline and obtain transfer of point of diversion to Grantee's well.

(2) Under License # A22-07010, 1.67 cfs with priority of May 20, 1968. There is no transfer of the well, pump, and mainline at the present point of diversion extending to the subject property; Grantee must at his own expense acquire the same from the owner thereof.

MICROFILMED

State of Idaho
County of Madison.

SS 234412

herely certify that the within instrument was
filed

9 at 4:20 P.M. and
recorded on this 234412

Fee 9.00

y MARIE B. HOOPES, Recorder

Deputy

At the request of

First American Title Company

SCANNED

AUG 15 2007

SUBJECT TO easements of record or in existence for roads, pipelines, and utilities.

TOGETHER With any and all improvements and appurtenances thereto; rents, issues and profits thereof; and reversions and remainders.

Grantor covenants and warrants that fee simple title, to the property, is conveyed to Grantee by this Deed, free from all encumbrances, except accruing 1990 property taxes.

DATED This 17th day of April, 1990.

Antho Price
ANTHON PRICE as
Personal Representative
of the Estate of GLENA PRICE

Gar Calaway
GAR CALAWAY

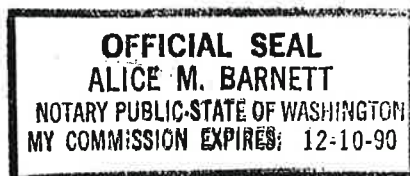
Val Calaway
VAL CALAWAY

Shirley Whitby
SHIRLA WHITBY

STATE OF WASHINGTON)
County of Franklin) ss.

On this 28 day of April, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared ANTHON PRICE, known to me to be the person whose name is subscribed to the within instrument as Personal Representative of the Estate of GLENA PRICE, and acknowledged to me that he executed the same as such Personal Representative of said estate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Alice M. Barnett
Notary Public for Washington
Residing at: Bain City
My Commission Expires: 12/10/90

SCANNED

AUG 15 2007

STATE OF WASHINGTON)

ss.

County of Franklin)

On this 31st day of April, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared GAR CALAWAY, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Alice M. Barnett
 Notary Public for Washington
 Residing at: *Basin City*
 My Commission Expires: *12/10/90*

STATE OF WASHINGTON)

ss.

County of Franklin)

On this 28 day of April, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared VAL CALAWAY, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

OFFICIAL SEAL
ALICE M. BARNETT
 NOTARY PUBLIC-STATE OF WASHINGTON
 MY COMMISSION EXPIRES: 12-10-90

Alice M. Barnett
 Notary Public for Washington
 Residing at: *Basin City*
 My Commission Expires: *12/10/90*

STATE OF WASHINGTON)

ss.

County of Franklin)

On this 27 day of April, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared SHIRLA WHITBY, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

OFFICIAL SEAL
ALICE M. BARNETT
 NOTARY PUBLIC-STATE OF WASHINGTON
 MY COMMISSION EXPIRES: 12-10-90

Alice M. Barnett
 Notary Public for Washington
 Residing at: *Basin City*
 My Commission Expires: *12/10/90*

SCANNED

AUG 15 2007



Idaho Department of Water Resources

SRBA Recommendation:

22-2195B

22-7010

22-7048

22-7050

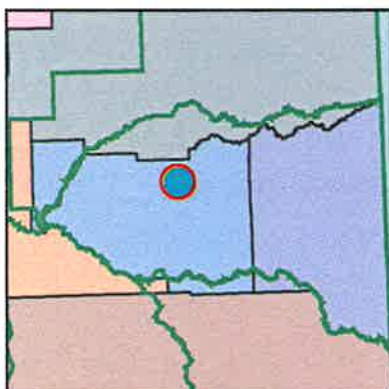
22-13516

(Irrigation)

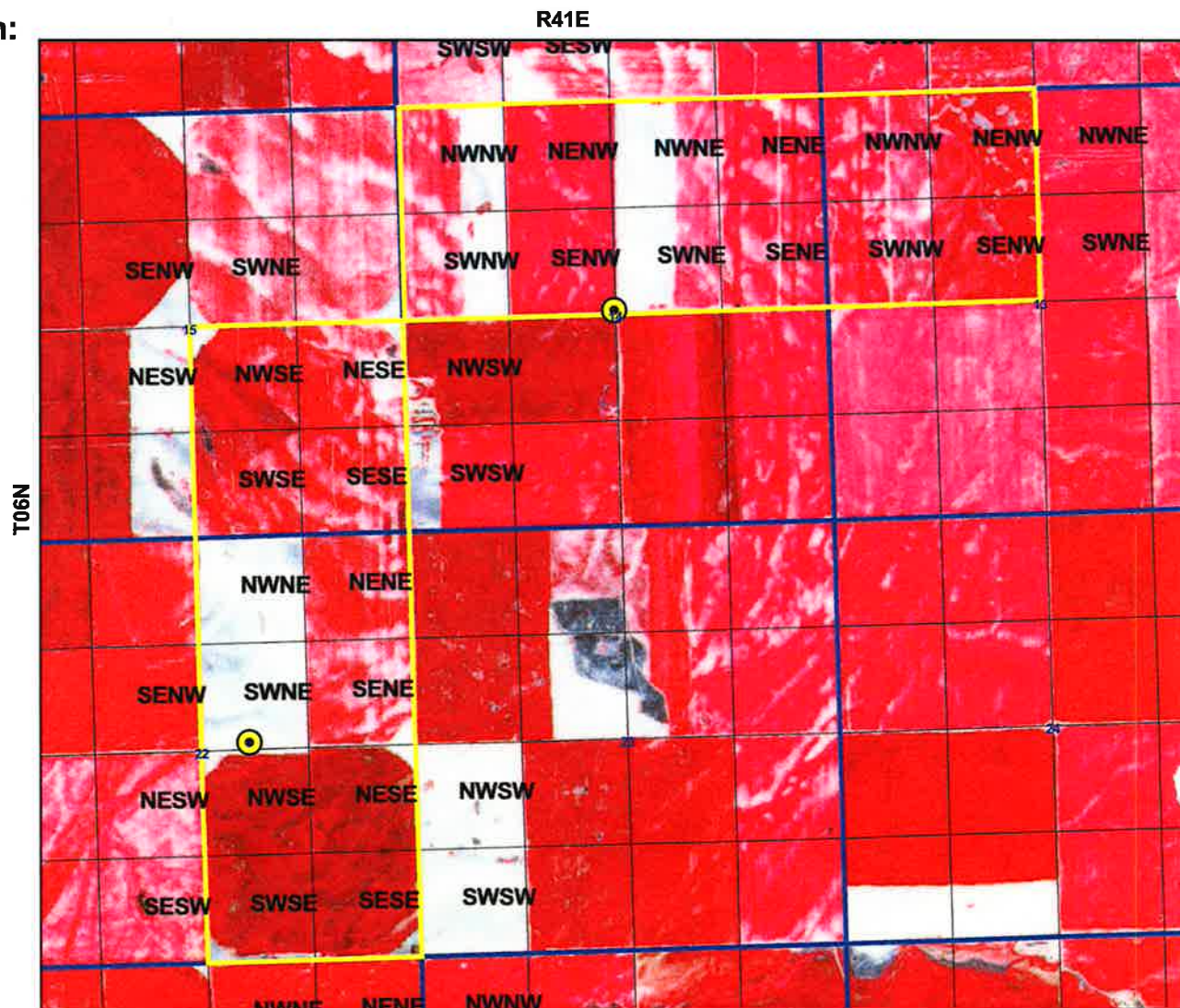
SCANNED
AUG 15 2007

Legend

- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Madison County
IDWR Basin 22



0 0.9 1.8 Miles

Prepared by T. Galbraith
On Friday, October 20, 2006
1987/88 Aerial Photography

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 22-2195B
Date Received: 8/15/1988
Receipt No:
Received By: *EQ 31547*
01/09/06 HSR

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

MONA WALTERS Phone: (208) 458-4105
W JEFFERY WALTERS
SHAWN WALTERS
PATRICE WALTERS
PO BOX 156
NEWDALE ID USA 83436

2. Date of Priority: 12/11/1960

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06N	41E	14	SE SE NW	MADISON	

5. Description of diverting works:

WELL/PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	1.5	

7. Total Quantity Appropriated is:

1.5 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
06N	41E	14	NE NW	IRRIGATION	39
			NW NW	IRRIGATION	39
			SW NW	IRRIGATION	38
			SE NW	IRRIGATION	38
				Section Acres	154
				Total Acres	154

11. Place of use in counties: MADISON

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

THIS CLAIM IS FOR A PORTION OF LIC. 22-2195.

POD CHANGED IN 1983. ACCOMPLISHED CHANGE PER 42-1426.

15. Basis of Claim: License

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Shawn J. Walter Date: 1-9-06

Date: _____

State of Idaho)
County of BONNEVILLE) SS.

Subscribed and sworn (or affirmed) before me this 9th
of JANUARY 2006

AUGUST B. RUBERRY
Notary Public

Residing at PO BOX 1000

My commission Expires 9/23/09



SCANNED

AUG 15 2007

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 22-2195B

WATER RIGHT NUMBER 22-2195B

Owner Type Name and Address
Current Owner CLYDE CALLOWAY
REXBURG, ID 83440

Priority Date: 12/11/1960

Basis: License

Status: Temporary

Source Tributary
GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 11/01	1.500 CFS	
	<u>Total Diversion:</u>	1.500 CFS	

Location of Point(s) of Diversion

GROUND WATER SE1/4NE1/4 Sec. 15, Twp 06N, Rge 41E, B.M.
MADISON County

Place of Use

IRRIGATION

walters

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
06N	41E	14					39.0	39.0	38.0	38.0									154.0

Total Acres: 154

Conditions of Approval:

- THIS CLAIM IS FOR A PORTION OF LIC. 22-2195.

Remarks:

Comments:

Shawn call - No fee paid
458-4105

SCANNED