

09/21/2005

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

RIGHT NUMBER: 22-11666

NAME AND ADDRESS: WALTERS READY MIX INC
342 W 4TH N
REXBURG ID 83440

SOURCE: GROUND WATER

TRIBUTARY: TETON RIVER

QUANTITY: 0.040 CFS

PRIORITY DATE: 06/01/1947

POINT OF DIVERSION:

T06N R40E S19 SWSWNE Within MADISON County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

INDUSTRIAL

1/01 12/31

0.040 CFS

RECREATION

4/01 10/31

175.00 AFY

PLACE OF USE:

INDUSTRIAL Within MADISON County

T06N R40E S19 SWNW

RECREATION Within MADISON County

T06N R40E S19 SWNW

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 - Beneficial Use

09/23/2005

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 22-11666

WALTERS READY MIX INC

342 W 4TH N

REXBURG ID 83440

Telephone Number: (208)356-5491

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

Rate of Diversion

2. Describe the changes you wish to make in the proposed recommendation:

The rate of diversion is too low and should be equivalent to 1,000 gallons per minute as set forth in the original claim.

3. Give a brief explanation as to why you disagree with these portions:

A mistake was made when the conversion was made to CFS.
Otherwise Claimant agrees with the recommendation.

 I AGREE with this proposed recommendation: no changes need to be made.

DATE: 1/13/2006

SIGNATURE: Gary W. Moellen for

Please print your name: Jerry R. Rigby

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

4/23/06

REQUIRES AN ~~AMENDMENT~~ ^{NEW PERMIT} CLAIM
IT WAS RECOMMENDED "AS CLAIMED"

or Amend

see

RECEIVED

JAN 17 2006

Department of Water Resources
Eastern Region

SCANNED

AUG 20 2007

01/30/2006

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

E002123

RIGHT NUMBER: 22-11666

NAME AND ADDRESS: WALTERS READY MIX INC
342 W 4TH N
REXBURG ID 83440

SOURCE: GROUND WATER

TRIBUTARY: TETON RIVER

QUANTITY: 0.040 CFS

PRIORITY DATE: 06/01/1947

POINT OF

DIVERSION: T06N R40E S19 SWSWNE Within MADISON County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

INDUSTRIAL

1/01 12/31

0.040 CFS

RECREATION

4/01 10/31

175.00 AFY

PLACE OF USE: INDUSTRIAL Within MADISON County

T06N R40E S19 SWNW

RECREATION Within MADISON County

T06N R40E S19 SWNW

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 - Beneficial Use

- The recreation use depends on subwater that naturally rises in gravel pit. ~~Since~~ it seems to me they are not entitled to a water right since there is no control over how much water is in the pit. The pit certainly was not at it current size in 1947, when the business started.

See Jimmy Rigby - email attached => FWS

Amend claim?

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AUG 20 2007

Ruberry, Allen

From: Jerry Rigby [jrigby@rigby-thatcher.com]
Sent: Tuesday, January 31, 2006 4:08 PM
To: Al Ruberry
Subject: Walter's Ready Mix 22-11666

Al, I just met with Skip this morning about the above entitled beneficial claim. As you know, we replied to the recommendation claiming that the cfs rate was too low. I know that the claim itself had the .04 cfs. However, this was obviously a mistake because the claim also clearly stated that the pumping was 1,000 gallons per minute. In fact, as you review the original, which Skip had in his file this morning, it is clear that the original claim was altered for some reason.

At any rate, it will require an amended claim and Skip told me that if I would get you the pumping information, you would provide your comments and perhaps a draft of the amended claim. The recreational right is correct on the recommendation and does not need to be changed. *→ 1947 - Don't think so - See BNC notes*

Here is what was occurring in 87 as well as what had been occurring since 1964 or 1965:

A float with a pump sat on the middle of the pond and pumped 1,000 gallons per minute into a pipe which emptied into the Wash Plant located adjacent to the pond. Aggregate was washed within the Wash Plant. The average hours per day was 10. The plant was operated six days of the week and for a ten month average period of time per year.

It is important to note that most of the wash water went immediately back into the pond and the washed aggregate was stored next to the pond where the excess water also drained back into the pond. Therefore, there is very little consumptive use. *No issue*

→ The original claim had a priority date of June 1, 1947 which is technically correct. However, the 1000 gallon per minute pump wasn't installed until 1964 or 1965. *Advanced Priority to 1964 or File 2nd claim w/1947.*

If you need something further, please let me know by return email. Also, I understand that you will be mainly working in the Teton County area from now on. Therefore, if you have assigned this to someone else in the office, please let me know.

Thanks again for all of your help.

Jerry R. Rigby

Rigby, Thatcher, Andrus, Rigby & Moeller, Chartered

P.O. Box 250

Rexburg, Idaho 83440

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

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2/1/2006

Claim no. 2211666

Claimant Contact Log

Date	Remarks	Agent initials
------	---------	----------------

19 MARCH 04	MAILED REQUEST FOR PRIORITY EVIDENCE	
-------------	--------------------------------------	--

18 May 05	356-5491 ~~no longer in service~~ - msg w/ Secretary	
-----------	--	--

19 May 05	Mr. Walters called back, field inspection done. Bac	
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Contacts Data Entry Form

Claim Number: 2011666

Owner Type	Full Name	Address	City	State	Zip
------------	-----------	---------	------	-------	-----

Current Owner:	<u>WALTERS Ready mix</u>		Phone No.:	<u>208-356-5491</u>	
Current Owner:			Phone No.:		
Current Owner:			Phone No.:		

Name connector: and _____, or _____, and/or _____.

Representing Attorney: _____ Phone No.: _____

Accompanied By: _____ Phone No.: _____

Relationship to Claimant: _____ Date of Field Exam: _____

Discussion of right origin and split history. Questions and problems.B. U.

Claimed diversion rate insufficient for gravel-washing operation. Because use is non-consumptive, claimant does not see a need to amend claim. I suggested he visit w/ his attorney. Pac 19 May '05

Gravel washing is also supplemented by post-AJ well. Number "22-7627" appears on well but I haven't investigated this permit/license. After washing use, water returns from well to pond. Pac 19 May '05

7 E pond/por conveyance/system

Reviewer: _____ Date: _____

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AUG 20 2007

Priority Date Data Entry FormClaim Number: 2211666

Water Right Priority Date: _____ Water Right Basis: _____

Claimed Priority Date: 1 June 1947 Claimed Basis: B.U.

Recommended Priority Date: _____ Recommended Basis: _____

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

See affidavit from Mrs Walters, supports 1947 but no
particular date of 1947 Bde 19 May 05

Reviewer: _____

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AUG 20 2007

Date: _____

Water Right No(s). 2211666



GPS DATA:

Tag # none, no place to put it Location: _____

Photo taken from
near Waypoint 3

Diversion Data:

Source: POND Trib to: _____

MOTOR

Make: _____ Model: _____ Hp: _____

SN: _____

PUMP

Make: _____ Model: _____ Disch: _____

SN: _____

NOTES:

Per Mr. Walters dredge has 600 horsepower Caterpillar 3412 engine. This runs the entire dredge including water pumps, gravel pumps, cutter heads and conveyors. Pac 19 May 05

Field Exam Date: _____ Agent: _____

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AUG 20 2007

Bas 19 May 05

Fire pit at
recreation site,
taken near
waypoint 4



A22-11666
Photo of pavilion
at recreation site,
taken near
waypoint 4



A22-11666
Boat ramp and
dock at
recreation site,
taken near
waypoint 4

5 19 '05

A22-11666



Looking west at
recreational pond
from near
Waypoint 5

5 19 '05

A22-11666

Bac 19 May 05

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AUG 20 2007

Point of Diversion and Source Data Entry Form

Claim Number: 2211666Water Right Point(s) of diversion and Source.

Water Right Point of Diversion: T _____, R _____, Sec. _____, _____, _____, _____, County: _____

Source: _____ Tributary to: _____

Water Right Point of Diversion: T _____, R _____, Sec. _____, _____, _____, _____, County: _____

Source: _____ Tributary to: _____

Claimed Point(s) of Diversion and Source.

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source	Tributary to
6N	40E	19			SE SN NW Madison	Ground Water	

Recommended Point(s) of Diversion and Source.

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source	Tributary to
						POND	

C02

Other rights from this POD? _____

Transfers Pending or approved: _____

Document how the POD and Source were verified:GPS Waypoint 3 is $\approx$ 100 ft west of where dredge pipes exit pond, 2677488E 1406146N IOTM 83.

GPS Waypoint 4 is parking area of recreational spot, 2677557E 1406295N IOTM 83.

GPS Waypoint 5 is near NE corner of pond, 2678159E 1406195N IOTM 83.

See sketch on layout. BAC 19 May 05

Reviewer: _____ Date: _____

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AUG 20 2007

Place Of Use Data Entry Form

Claim Number: 2211666Claimed Place Of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use
64	40	19	SW	NW	Madison			Industrial
"	"	"	SW	NW	"			Recreation

Total acres _____

Recommended Place of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use

Total acres _____

Pending or approved Transfers: _____

Overlapping rights: _____

Document how the POU was verified:

Please see sketch on layout

Reviewer: _____ Date: _____

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AUG 26 2007

Season of Use and Quantity Data Entry Form

Claim Number: 2211666Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
Industrial	1/1	12/31		
RECREATION	4/1	10/31		

Overall Diversion Rate _____

Overall Diversion Volume _____

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Document how the Period of Use and/or Diversion Rate were verified:

IDWR STD 304. 1/1 - 12/31 Industrial
1/1 - 12/31 Recreation

See notes on "Questions and Problems" page. Claim is
 for 0.04 cfs w/ description of 1000 gpm diversion works.

Reviewer: _____

Date: _____

SCANNED
 AUG 20 2007

Mailed
19 March

March 19, 2004

**WALTERS READY MIX INC
342 W 400 N
REXBURG ID 83440**

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-11666

Dear Claimant (s):

The Idaho Department of Water Resources is beginning water rights review in Basin 22, the Teton River drainage. The Notice(s) of Claim identified with the number shown above has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting the priority date. As the claimant, you are responsible for submitting the necessary proof to support the priority date.

Your claim, as referenced above, claims a Priority Date of JUNE 1, 1947, from a WELL.

It is important that each element of the Notice of Claim be verified. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice of Claim and the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "**What Kind of Evidence is Required**" and "**Some Examples of Documents Which May Be Evidence of the Priority Date**".

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other elements of the Notice of Claim have been or soon will be conducted by Department personnel.

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A22-11666 Current Condition (2004 Aerial Photograph)



False Color: 1987 Aerial Photography from IDWR
True Color: 2004 Aerial Photography from USDA NAIP
(Georeferenced by Water Resources Field Services)

SCANNED
AUG 20 2007



- Tempgps.txt
- A22-12780_amend.shp
- PLSS Section LinesGcdb_sections.shp
- Gcdb_qq.shp

Illustration prepared by
Water Resources Field Services
208 681 9100

Law Offices

***RIGBY, THATCHER, ANDRUS
RIGBY, & MOELLER, Chartered***

*Ray W. Rigby
Gordon S. Thatcher
G. Rich Andrus
Jerry R. Rigby
Michael S. Kam (1954-2001)
Gregory W. Moeller
Reed E. Andrus*

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

*Telephone: (208) 356-3633
Fax: (208) 356-0768
E-Mail: jrigby@rigby-thatcher.com*

January 13, 2006

IDWR
900 North Skyline Drive, Ste. A
Idaho Falls, Idaho 83402

Re: Notice of Error Reply for Walters Ready Mix, Inc.

Enclosed please find the original Notice of Error Reply for Walters Ready Mix, Inc.

If you have any questions or concerns, please feel free to give our office a call.

Sincerely yours,



Jodi L. Thurber
Assistant to Jerry R. Rigby

/jt

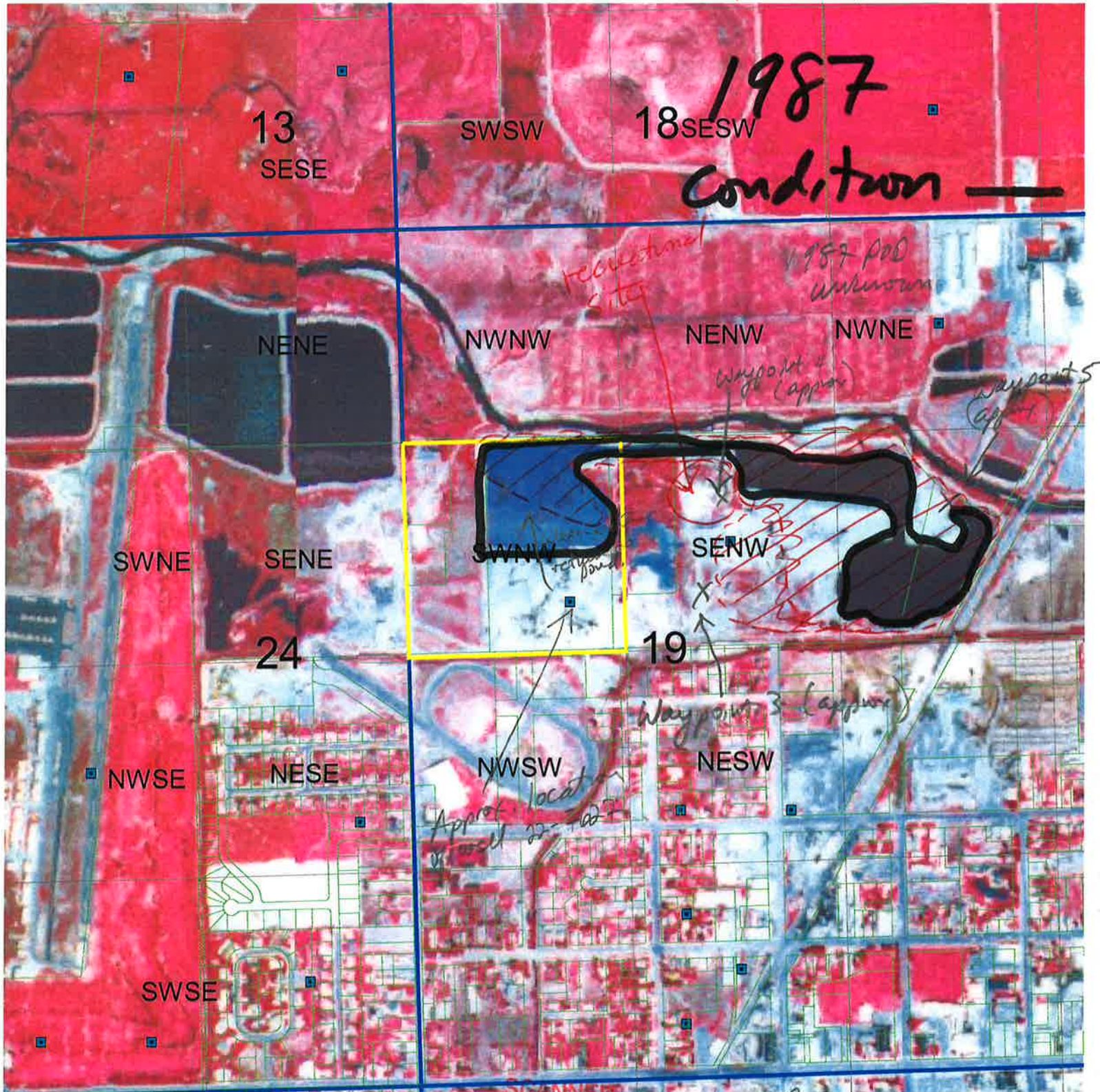
Enclosure

F:\WP6\SB\WALTERSD.L30

SCANNED
AUG 20 2007

22-11666

Current
Condition
(approximate) -----



SCANNED
AUG 20 2007

Bac 19 May 05

AFFIDAVIT OF MERIAN Z. WALTERS

STATE OF IDAHO,)
 ss
County of Madison.)

MERIAN Z. WALTERS, being first duly sworn, states under oath as follows:

1. My name is Merian Z. Walters.
2. My address is 248 South 3rd East, Rexburg, Idaho 83440.
3. My age is 78.
4. My husband and I engaged in the business in 1947, which exists on the present location of Walters Ready Mix, Inc., a corporation which we organized.
5. Since 1947, we have continuously used waters from the sub-waters which developed from our excavations on our properties.

DATED This 19th day of July, 1988.

Merian Z. Walters
Merian Z. Walters

SUBSCRIBED AND SWORN To before me this 19th day of July, 1988.

Debra A. Keller
Notary Public for Idaho
Residing at: Rexburg, Idaho
My Commission Expires: 11-15-93

RECEIVED

JUL 21 1988

Department of Water Resources
Eastern District Office

SCANNED

AUG 20 2007

MICROFILMED

NOV 06 1986

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: 39356

Ident. Number

A22-11666

Date Received

9-7-88

Receipt Number

E002123

RECEIVED

JUL 21 1988

Department of Water Resources
Eastern District Office

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

AUG 25 1988

Department of Water Resources
Eastern District Office

Please type or print clearly

- Name of Claimant (s) Walters Ready Mix, Inc. Phone (208) 356-5491
Mailing Address 342 W. 400 N., Rexburg, Idaho Zip 83440
- Date of Priority (Only one (1) per claim) June, 1947
- Source of water supply (a) unnamed pond
which is tributary to (b) Teton River
- a. Location of existing point of diversion is: Township 6N Range 40 E Section 19,
SE 1/4 of SW 1/4 of NW 1/4, Govt. Lot, B.M., County of Madison
Additional points of diversion if any: _____
- b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
- Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. 1000 gallon/min. pump
with short section of pipe used to wash aggregate

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AUG 20 2007

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NOV 06 1992

3. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Industrial purposes from 1-1 to 12-31 amount .04 or _____

For Recreational purposes from 4-1 to 10-31 amount _____ or 175

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .04 (cfs) and/or (b) 175 (acre feet)
most is

8. Total consumptive use claimed is unknown/recharged acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Water sports and washing of aggregate.

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
6N	40E	19		R	R		R	R	IR	R									

Total number of acres irrigated -0-

11. In which county (ies) are lands listed above as place of use located? Madison

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (✓)

14. Remarks:
This pond covers 35 acres and is an average of 5 feet deep.

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AUG 20 2007

MICROFILMED

NOV 06 1992

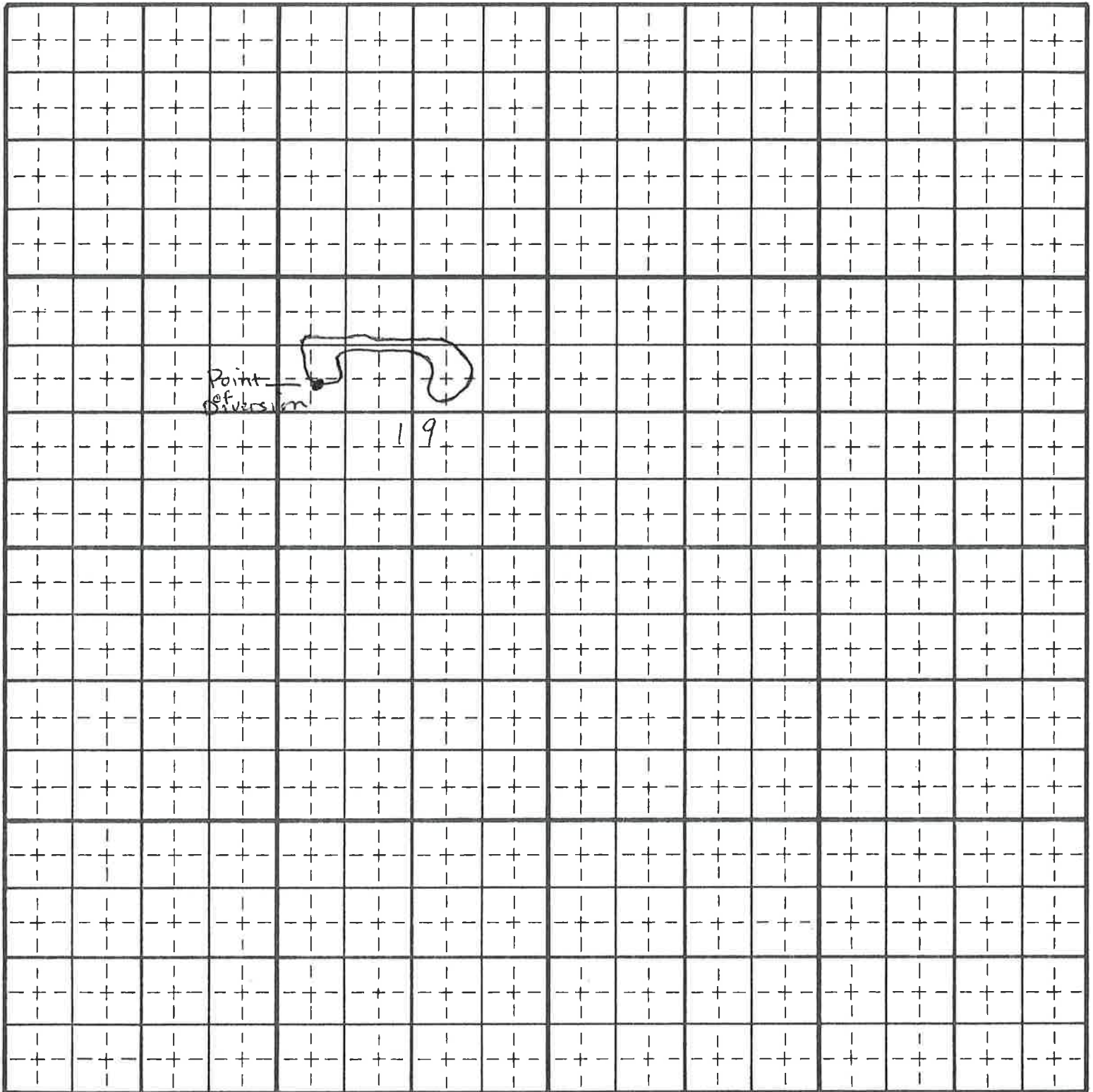
Last Name Walters Ident No. _____

Copies: White -State, Yellow-Claimant

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

Twp. 6 N., Rge. 40 E.B.M.



SCANNED

AUG 20 2007

MICROFILMED

NOV 06 1992

Last Name Walters

Ident No. _____

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use X Posted Notice _____ License _____ Permit _____
Decree _____

If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments 1 Affidavit of Merian Z. Walters

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ President _____
Title _____

of Walters Ready Mix, Inc. _____, that I have signed the foregoing
Organization _____
document in the space below as President _____ of Walters Ready Mix, Inc. _____
Title _____ Organization _____

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent David Z. Walters _____
Title and Organization President of Walters Ready Mix, Inc. _____ Date 7-18-88 _____

State of Idaho/or _____)
County of Madison) SS.

Subscribed and sworn (or affirmed) before me this 19th day of July 19 88

SEAL

Notary Public Debra A. Keller for Idaho

Residing at Rexburg, Idaho

My Commission Expires 11-15-93

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, Jerry R. Rigby will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Jerry R. Rigby

Address 25 N. 2nd East, Rexburg, Idaho 83440

Date 7-18-88

SCANNED

AUG 20 2007

Last Name Wilding Ident. Number _____

Copies White-State, Yellow-Claimant