

06/05/2003

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

RIGHT NUMBER: 29-4069

NAME AND ADDRESS: ASH GROVE CEMENT CO
6720 SW MACADAM AVE
STE 300
PORTLAND OR 97219-2312

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.670 CFS
485.000 AFY

PRIORITY DATE: 06/01/1937

POINT OF DIVERSION:

T07S R36E S21 SWSWSE Within BANNOCK County

T07S R36E S21 SWSWSE Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
INDUSTRIAL

PERIOD OF USE
01/01 12/31

QUANTITY
0.670 CFS
485.00 AFY

PLACE OF USE: INDUSTRIAL Within BANNOCK County

T07S R36E S21 SWSE

T07S R36E S28 NWNE

T07S R36E S28 NENW

T07S R36E S28 SENW

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: Beneficial Use

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-4069 V1

WATER RIGHT NUMBER: 29-4069 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ASH GROVE CEMENT CO 6720 SW MACADAM AVE STE 300 PORTLAND, OR 97219-2312 (503)293-2333
Original Owner	ASH GROVE CEMENT WEST INC 230 CEMENT RD INKOM, ID 83245 (208)775-3351

Priority Date: 06/01/1937

Basis: Beneficial Use

Status: Active

SourceTributary

GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
INDUSTRIAL	01/01 to 12/31	0.670 CFS	485.00 AF
<u>Total Diversion:</u>		0.670 CFS	485.00 AF

Location of Point(s) of Diversion

GROUND WATER	SW1/4SW1/4SE1/4	Sec. 21, Twp 07S, Rge 36E, B.M.
BANNOCK County		
GROUND WATER	SW1/4SW1/4SE1/4	Sec. 21, Twp 07S, Rge 36E, B.M.
BANNOCK County		

Place of Use

INDUSTRIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	36E	21																X	
07S	36E	28		X			X		X										

Conditions of Approval:

1. C18 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.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
 Adjudication Recommendation Report 29-4069 V1

Comments:

1. csaxton 1/15/2003 POU

Comment: Based on statement on statutory claim, "Each well is plumbed into a common pipeline for distribution of water to all parts of the manufacturing plant." I am recommending 4 QQs where water is used.

2. csaxton 6/5/2003 Diversion Volume

Comment: Thru the NOE process, I re-evaluated the recommended diversion volume and apparently made a calculation error. Recommended diversion volume changed from 702 afy to 485 afy.

3. csaxton 6/5/2003 POD

Comment: This right is diverted from Wells #1 and #2.

Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Priority Date	7/11/2002 1:12:08 PM	csaxton			Active
Source	7/11/2002 1:20:27 PM	csaxton			Active
POD	7/11/2002 3:52:42 PM	csaxton			Active
POU	7/11/2002 3:52:44 PM	csaxton			Active
Season	7/11/2002 3:52:45 PM	csaxton			Active
Use	7/11/2002 3:52:45 PM	csaxton			Active
Quantity	7/11/2002 3:52:46 PM	csaxton			Active
POU	1/15/2003 11:46:32 AM	csaxton			Active
Use	1/15/2003 11:48:54 AM	csaxton			Active
Season	1/15/2003 11:49:35 AM	csaxton			Active
Quantity	1/15/2003 11:52:28 AM	csaxton			Active
Summary			01/15/2003	csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-4069 V1

POU	1/15/2003 11:47:39 AM	csaxton	Edited PLS
POU	1/15/2003 11:46:32 AM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required? Description for Question 13 - FE 5/29/02
POU	1/15/2003 11:47:05 AM	csaxton	Edited shape boundary
Use	1/15/2003 11:48:54 AM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - FE 5/29/02
Season	1/15/2003 11:49:36 AM	csaxton	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (No) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required? Description for Question 15 - Year round use for industrial.
Quantity	1/15/2003 11:52:28 AM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (Yes) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 10. Is a irrigation a purpose of use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - Used claimants flow meter. See notes in file. Description for Question 10 - Full diversion rate running for 365 days a year. $V=(0.67)(1.9835)(365 \text{ days}) = 702 \text{ AF}$

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-4069 V1

Summary	1/15/2003 11:59:09 AM	csaxton	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Is an additional remark and/or condition required? (Yes) 6. Would you like to view the recommended right? (No) 7. Is this a split or combined right? (No) 8. Do you have documents you would like to attach or link to the file? (Yes) 9. Would you like to set the verification date?
POU	7/11/2002 3:52:45 PM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU?
Use	7/11/2002 3:52:45 PM	csaxton	(No) 1. Is the basis of this claim a Decree or License?
Season	7/11/2002 3:52:46 PM	csaxton	(No) 1. Is the basis of claim Decree or License?
POD	7/11/2002 3:52:46 PM	csaxton	(No) 1. Is the basis of this claim a Decree or License?
Contacts	7/11/2002 1:10:57 PM	csaxton	(No) 1. Do you want to schedule an appointment?
Contacts	7/11/2002 1:13:32 PM	csaxton	Comment for 1: Field exam 5/31/02 (No) 1. Do you want to schedule an appointment?
POD	7/11/2002 1:17:30 PM	csaxton	Comment for 1: Field exam 5/29/02 Edited point location
POD	7/11/2002 1:17:57 PM	csaxton	Edited point location
POD	7/11/2002 3:52:42 PM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-4069 V1

Priority Date	7/11/2002 1:12:09 PM	csaxton	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date claimed after the date a permit is required for the source and the water use? (Yes) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - Affidavit by company worker.
Source	7/11/2002 1:20:28 PM	csaxton	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - Field exam 5/29/02



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

June 5, 2003

ASH GROVE CEMENT CO
6720 SW MACADAM AVE
STE 300
PORTLAND OR 97219-2312

RE: Notice of Error Reply for Snake River Basin Adjudication (SRBA) preliminary recommendations 29-07076 and 29-04069.

Dear Ash Grove Cement Co,

This office received the Notice of Error (NOE) reply you submitted on March 24, 2003 signed by Craig A. Puljan. I will address your requests stated in the NOE below:

29-04069:

1) The notice of NOE reply form did not mention a problem with this recommendation directly, but in the NOE submitted for 29-07076 you stated that both the CFS (diversion rate) and AFY (diversion volume) was in accurate. The request was to increase the diversion rate to 0.78 cfs and to remove the AFY restriction. Despite that this request was submitted on the NOE reply form for 29-07076, I assume that you meant to address SRBA claim 29-04069 since that claim originally claimed a diversion rate of 0.78 cfs.

The SRBA claim was based on a statutory claim (also referred to as a beneficial use claim) 29-04069. A claim based on beneficial a claim to a water right that could have been developed through historical practice but has not been verified by IDWR. Thus all aspects of the claim need to be verified.

Diversion Rate:

On 5-29-02 I met with Craig Puljan and he put me in contact with James to show me the system. Claim 29-04069 claimed use from wells described as Well #1 and Well #2. James shut off everything except well #1 and the water meter measured between 100 and 200 gallons per minute. We did the same with well #2 and measured capacity of 100 gallons per minute. My guidance is to recommend the maximum diversion rate so I took the 200 gpm and the 100 gpm totaling 300 gpm.

$$300 \text{ gpm} / 448 \text{ gpm} = 0.67 \text{ cfs}$$

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MAR 10 2003

IDWR can only recommend a diversion rate up to the capacity of the system. Thus the diversion rate of the combination of the capacity of the two wells was recommended for SRBA claim 29-04069 at 0.67 cfs.

Diversion Volume:

IDWR requires a diversion volume on all water rights diverted from a groundwater source. In reviewing my calculations, it appears that I originally made an error in the preliminary recommendation by recommending a diversion volume of 702 AFY when it should have been 485 AFY. The diversion volume is calculated as follows:

$$1 \text{ cfs flowing for 24 hours} = 1.9835 \text{ acre-feet}$$

Thus:

$$0.67 \text{ cfs} \times 1.9835 \times 365 \text{ days} = 485 \text{ af}$$

Thus the diversion volume recommended is the volume of water that would be diverted if both well #1 and well #2 ran continuously for 24 hours a day, 365 days a year.

Note that the new diversion volume is reflected in the amended preliminary recommendation for 29-04069. I apologize for this previous error on my part.

29-07151:

On the NOE submitted for 29-04069 Craig Puljan stated that he did not receive a preliminary recommendation for 29-07151.

That is because that permit lapsed and no SRBA claim was filed for it. For your information, I am enclosing two letter of notification sent in 1978 stating that permit 29-07151 had lapsed and is no longer valid.

29-07855:

On the NOE submitted for 29-04069 Craig Puljan stated that he did not receive a preliminary recommendation for 29-07855 (Well #3)

This water right was developed after the commencement of the SRBA (November 19, 1987), and thus a SRBA claim was not required. No claim was filed for 29-07855 so you did not receive a recommendation on this right. However, the license is still a valid water right.

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29-07076:

The NOE reply submitted for this claim requests an increase in diversion rate and removal of a diversion volume limitation on the preliminary recommendation.

As stated above, I think that this was meant to address the SRBA preliminary recommendation for 29-04069, however if it was meant for 29-07076, I will address that issue.

29-07076 was licensed on January 9, 1974. At this time the water use under this right was verified. I cannot increase the recommended diversion rate or remove the diversion volume since it was previously defined in the license.

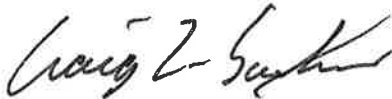
Conclusion:

I hope this helps to address your questions concerning the preliminary recommendations sent out at the beginning of the year.

If you still disagree with the recommendations, you will be notified at the time the director's report is issued and at that time will have a chance to object and be heard by the SRBA court.

Please feel free to contact me with further questions.

Respectfully submitted,



Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

Enclosure(s)

SCANNED

MAR 10 2006

Craig
02/18/2003

NOTICE OF ERROR
REPLY

RECEIVED
MAR 14 2003

Department of Water Resources

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: April 21, 2003

Water right number: 29-4069

ASH GROVE CEMENT CO
6720 SW MACADAM AVE
STE 300
PORTLAND OR 97219-2312
Telephone Number: (503) 293-2333

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MAR 24 2003

WATER RESOURCES
WESTERN REGION

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

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

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

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

DATE:

3/10/03

SIGNATURE:

Craig A. Puljar

Please print your name:

Craig A. Puljar

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

I DID NOT RECEIVE A PRELIMINARY RECOMMENDATION FOR WATER
RIGHT 29-7151 DATED 9/11/73 OR WATER RIGHT # 29-07855
DATED 10/10/88. I BELIEVE THESE TWO RIGHTS SHOULD BE INCLUDED.

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- 1-15-03 : Evidence of a well drilled in 1929.
: Statutory Claim filed in 1976 claims a priority date of 1937 with two wells.
: No evidence of when 2nd well was drilled but it seems that since priority date was claimed 8 years after claimant's evidence supports that the 2nd well was probably drilled on or prior to 1937.
: Priority date Good with diversion Rate from Both wells.
: Diversion Rate Calculations as follows:

1) all pumps except well 1 shut off.
meter read 100-200 GPM. Rec max of 200 GPM or 0.45 cfs

2) All pumps except well 2 shut off.
meter Read 100 GPM. Rec 100 GPM or 0.22 cfs

Total diversion Rate 0.67 cfs

Diversion Volume:

$$V = (0.67)(1.9853)(365) = \boxed{485 \text{ Af}}$$

↳ (This calculation is the same used for licensing of 29-07076)

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5/24/02 : 1-800-237-8535 - Turkom

Ronda is office Manager.

: Called and left Message to Call Back : 4:15

5/28/02: Craig Pullman - Field Exam - Setup by phone

5/29/02 : look up 29-07855 - Not included in SRBA
OK { on Record. licensed for 0.67 cfs + 4385 A-P
capacity of 0.720 cfs according

: Look up 29-07151 - 1973 - Permit - look if lapsed
says well #3 (This is lapsed c.s. 7/14/02)

: Total of 4 wells + River Pump.

All pump into a Common System into a tank. Unknown size

: James

: Showing me the system - Been Here since 1984

: #1 10 horse Seiberville
Gauge 8C12010640
Replacement last Fall 100' deep
100-200 GPM

#2 10 HP Franklin 112
Grunzel 1505100-05 ~ 35 ft Aps
100 GPM ~ 50'
- Quarry

643132
189352

#3 7.5 HP Franklin
Grundlo 80376-8
Supplier Mill. Bunking only
~ 100-100'

#4 Unknown 200' deep Pump
1.5 GM Drinking water 175' deep
400-550 model
7-17-00 - Amps 8.7

River Pump - Intermittent 3 or 4
Tsurumi months out of
KTV-37 years, River only

5 HP Sup pump
- designed to Run 150 GPM
~ 130 GPM
100 GPM

#250 - 860 GPM

Flow Meter Mcclometer

350

SV 234 = 3275-202

PH/AZ 60

Volt 460

B/W 1.24 Pps
350 GPM

Storage Water tank

~ 19.5' FE diameter

8" x 8' 8" = 24'6" high

$$V = \pi r^2 H = (\pi) \left(\frac{19.5}{2} \right)^2 (24.5 \text{ FE}) = (7317 \text{ FE}^3) (7.4805 \text{ g}) = 54773.8 \text{ g}$$

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7-11-02: Storage Component

Height of storage tank = 24.5 Feet

Diameter of storage tank = 19.5 Feet

$$\therefore V = \pi r^2 H = (\pi) \left(\frac{19.5 \text{ Ft}}{2} \right)^2 (24.5 \text{ Ft}) = 7317 \text{ Ft}^3$$

$$\therefore (7317 \text{ Ft}^3) \left(\frac{7.4805 \text{ gal}}{1 \text{ Ft}^3} \right) = 54733.8 \text{ gal}$$

$$\therefore 54734 \frac{\text{gal}}{\text{d}} \left| \frac{1 \text{ day}}{24 \text{ hr}} \right| \left| \frac{1 \text{ hr}}{60 \text{ min}} \right| \left| \frac{1 \text{ min}}{60 \text{ sec}} \right| \left| \frac{1 \text{ Ft}^3}{7.4805 \text{ gal}} \right| = 0.085 \frac{\text{Ft}^3}{\text{s}}$$

So 0.085 cfs running 24 hours fills storage tank.

No Storage Component Needed

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System 5/29/02
3 wells are Portneuf Pump
4 14243
Common system that pump into
Storage tank;
19.5 ft diameter
24' 6" high
Pictures show Control Panel
that Controls 3 wells and
Portneuf Pump. Storage
tank picture shows where
4 water sources held water.
James - Control - seen in
picture

29-04069

5-29-02

FE



Looking West, Well 1+2 about 35' Apart - Paved

#1 10 HP Sub

Gould SC1001064C

Replacement last Fall

100' deep

100-200 GPM

#2 10 HP Franklin

Grunder 150S100-05

50' deep

100 GPM



E. side of Pump house

Inside Pump house with McBlometer Flow Meter

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5/29/02

Well #3

29-07851

(Permit)



Looking N. Well is in holding concrete cylinder.

* This well is licensed under 29-07855 which was not required to be filed on in the SRBA

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MAR 10 2006

29-04069
5-29-02



Well 1+2
Looking at East
Side of Pump
house



SCANNED
MAR 10 2006

CLAIM TO A WATER RIGHT

Notice is hereby given that IDAHO PORTLAND CEMENT CO., a Division of Oregon Portland Cement Co.
(name of claimant)

The extent and nature of said claim is as follows:

- | | | | | | | | | |
|--------|----------------------|-----|-------------------------------|----------------|------|---------------|----|------------------------|
| Amount | <u>0.78</u> | Use | <u>industrial</u> | Period of Use: | From | <u>Jan. 1</u> | To | <u>Dec. '31</u> |
| Amount | _____ | Use | _____ | Period of Use: | From | _____ | To | _____ |
| Amount | _____ | Use | _____ | Period of Use: | From | _____ | To | _____ |
| | (cfs, gpm
or a/f) | | (dom., irri.,
stock, etc.) | | | | | (both dates inclusive) |

- (5) A) Point of diversion: (give location of point where water is diverted from its source)
(2points) SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21 Twp. 7 S Rge. 36 E B. M. County of Bannock
Additional points of diversion: NONE

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

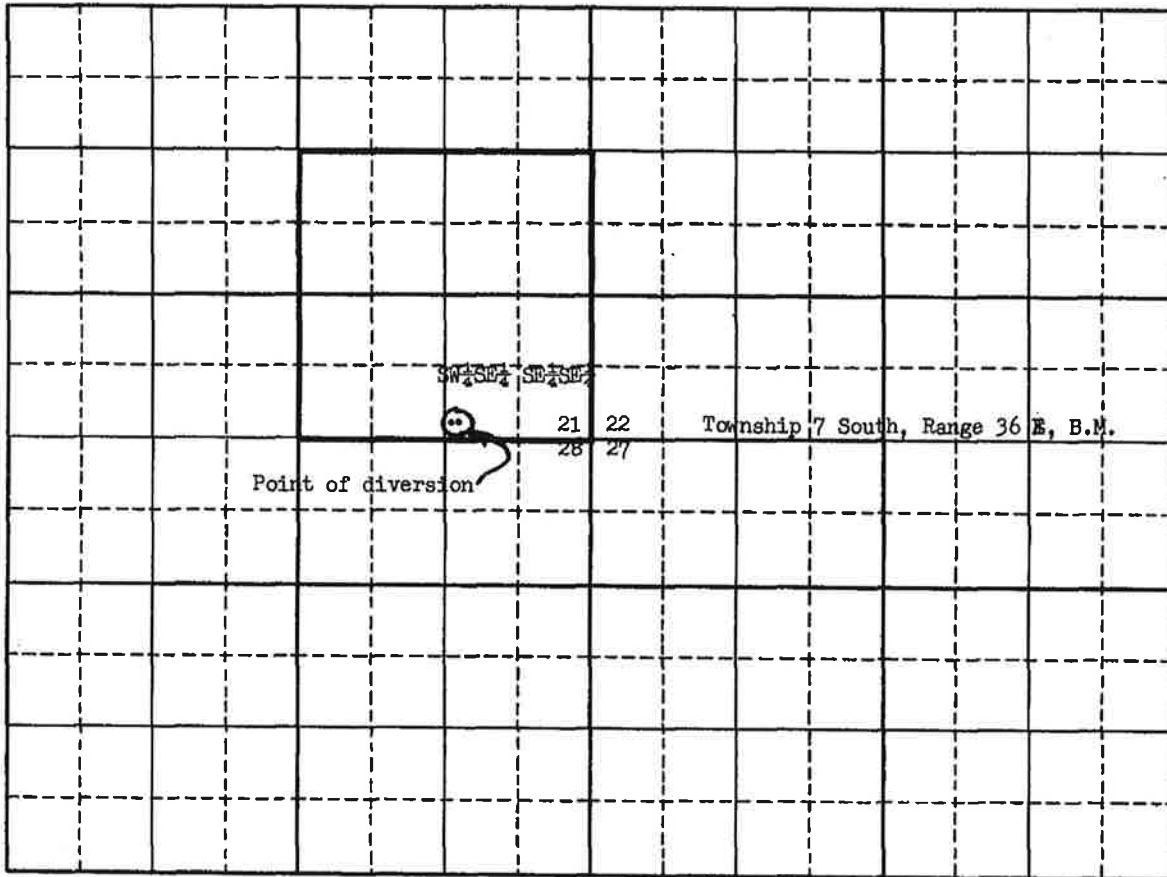
Total No. of acres _____

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: Manufacture of Cement
- 7
- (7) If you are claiming water as a member of an organization, list name of organization: Idaho Portland Cemeny Co.,
a Division of Oregon Portland Cement Co.

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MAR 10 2006

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Bannock) ss.
)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 27 day of October

H. E. [Signature] (Claimant)
19 76
W. S. [Signature]
Notary Public
Residing at Inkom, Idaho

My commission expires 5-28-79

For Department Use Only

Received by <u>[Signature]</u>	Date <u>10-28-76</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>[Signature]</u>	Date <u>10/28/76</u>		claimant by:	
\$10.00 fee received by <u>[Signature]</u>	Date <u>10-28-76</u>			
Approved for publication by <u>[Signature]</u>	<u>11-24-76</u>			
Published in <u>Idaho State Journal</u>	<u>22588</u>			
Dates <u>Nov 4 & 11, 1976</u>				

RECEIVED

NOV 24 1976

Department of Water Resources

November 22, 1976

RE: Claim to a Water Right No. 29-4069 IDAHO PORTLAND CEMENT CO.

Idaho State Journal
Box 431
Pocatello, Idaho 83201

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application. The legal notice was to have been published in your paper on November 4 and November 11, 1976.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

cc: IDWR - State Office

November 24, 1976

RE: Claim to a Water Right No. 29-4069

Idaho Portland Cement Company
Inkom,
Idaho 83245

Gentlemen:

The Department of Water Resources has completed the processing of your claim to a water right and no further action is authorized under Sections 42-225a and 42-225b, Idaho Code. Your claim will be retained in our files and will be available at any time for use by you or the court.

As you are aware, the filing of your claim does not, in itself, guarantee you a water right; it only records and preserves the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included in your claim file, you may have that information or evidence added at any time. Please refer to your claim number when corresponding with this office.

We are enclosing for your records, a copy of your claim. If you have any questions or if we can be of further assistance, please feel free to call upon us.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC: CW

Enc: Copy of Claim

NOV 24 1976
U.S. DEPT. OF AGRICULTURE
WASHINGTON, D.C.

November 22, 1976

RE: Claim to a Water Right No. 29-4069 IDAHO PORTLAND CEMENT CO.

Idaho State Journal
Box 431
Pocatello, Idaho 83201

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Your cooperation in this matter is greatly appreciated.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

cc: IDWR - State Office

October 29, 1976

RE: Claim to a Water Right No. 29-4069 IDAHO PORTLAND CEMENT

Idaho State Journal
Box 431
Pocatello, Idaho 83201

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. 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.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

Bill submitted 11-24-76 by CW

RDC: CW

Enc: Legal Notice (1)

NOTICE OF CLAIM TO A WATER RIGHT

NO. 29-4069

Notice is hereby given that Idaho Portland Cement Company,
Inkom, Idaho
has filed a claim to a water right established by diversion and application
to beneficial use of 0.78 cubic feet per second ~~XXXXXXXXXXXXXXXXXXXX~~
of water from ground-water sources
with point of diversion in the SW~~1~~SE~~4~~ (2 points), Sec. 21, T. 7S, R. 36E,
B.M., Bannock County

The water is claimed to be used from Jan. 1 to Dec. 31 for
Industrial purposes for the manufacture of cement,
with a priority of 1937 ;
the place of use is within the SW~~1~~SE~~4~~, Sec. 21, T. 7S, R. 36E, B.M.

Any exception to this claim of water right may be filed with the Idaho
Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401.

R. KEITH HIGGINSON

Director

Published in the Idaho State Journal, Pocatello, Idaho
on Nov. 4 and Nov. 11, 1976

*me. g.
-me. g.*

October 29, 1976

RE: Claim to a Water Right No. 29-4069

Mr. H. E. Curzon
Idaho Portland Cement
Inkom, Idaho 83245

Dear Mr. Curzon:

Attached herewith is departmental receipt No. 2588 in the amount of \$10.00 for the above referenced claim.

Very truly yours,

RONALD D. CARLSON
Supervisor,
Eastern Region

RDC:CW

Enclosure

1



RECEIVED

OCT 28 1976

Department of Water Resources
Eastern District Office

IDAHO PORTLAND CEMENT COMPANY

A DIVISION OF OREGON PORTLAND CEMENT COMPANY

INKOM. IDAHO 83245

TELEPHONE
(208) 775-3351

October 27, 1976

Mr. Loy H. Johnson
State of Idaho
Department of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Mr. Johnson:

Enclosed is the corrected CLAIM TO A WATER RIGHT that we are submitting for your approval.

Referring to Item #5, in my original discussion with your department, we were instructed that due to the fact that both of these wells were so close together that we should list them both on the same claim.

I hope this puts everything in order.

Sincerely,
IDAHO PORTLAND CEMENT COMPANY


H. E. Curzon
Business Manager

October 26, 1976

Mr. H. E. Curzon
Idaho Portland Cement
Inkom, Idaho 83245

Dear Mr. Curzon:

It is necessary we return your check No. 92-284 in the amount of \$10.00 and your claim to a water right for corrections.

Item 2, should indicate the amount of water in cubic feet per second, and the period of use should be from January 1 to December 31.

Item 5, point of diversion, you have indicated there are two wells within the described location.

Item 6 should indicate what 40-acre subdivision the use is located in.

The map in Item 8 shows the well to be in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, where the written description under Item 5 shows the SW $\frac{1}{4}$ SE $\frac{1}{4}$.

I have enclosed a copy of a 7 $\frac{1}{2}$ Minute Quad of the Inkom area which has the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, T. 7S, R. 36E, located to help you determine the exact location. We have also enclosed a new form which you may complete and resubmit to this office for further processing.

Very truly yours,

LOY H. JOHNSON
Senior Water Resource Agent

LHJ:CW

Enclosures

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 29-4069

WATER RIGHT NUMBER: 29-4069

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ASH GROVE CEMENT CO <i>OK</i> 6720 SW MACADAM AVE STE 300 PORTLAND, OR 97219-2312 (503)293-2333
Original Owner	ASH GROVE CEMENT WEST INC <i>OK</i> 230 CEMENT RD INKOM, ID 83245 (208)775-3351

Priority Date: 06/01/1937

Basis: Beneficial Use ✓

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
INDUSTRIAL	1/01 to 12/31 <i>OK</i>	0.780 CFS <i>0.67</i>	<i>702</i>
	<u>Total Diversion:</u>	0.780 CFS <i>0.67</i>	<i>702</i>

Location of Point(s) of DiversionGROUND WATER
BANNOCK County*SW SW 1/4 SE 1/4 OK*
*SW SW SE*Sec. 21, Twp 07S, Rge 36E, B.M. *OK*
*21 07S 36E*Place of Use

INDUSTRIAL

Twp	Rge	Sec	NE	NW	SW	SE	Totals
07S	36E	21	X	X	X	X	<i>OK</i>

Conditions of Approval:Remarks:1. 2 P/D SWSE, S21, T7S, R36E. *OK*Comments:Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 29-4069

Dates and Other Information:

Claim Received Date: 10/18/1988

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False



Subject

5/29/02

System Diagram

Date

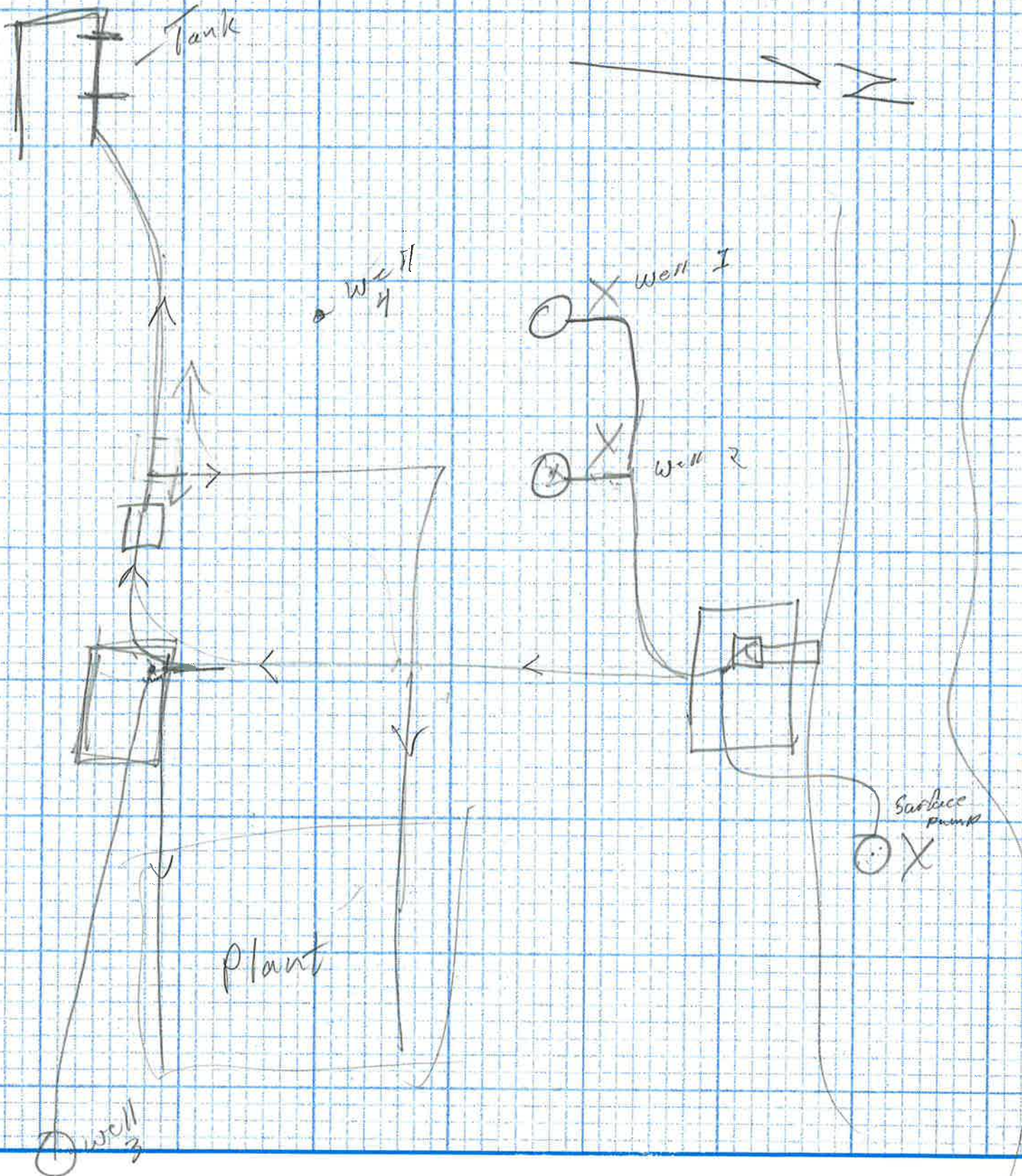
Sheet

of

Job

By

Chkd.



SCANNED

ASH GROVE CEMENT COMPANY

WESTERN REGION
230 CEMENT ROAD
INKOM, IDAHO 83245-1543
PHONE 208 / 775-3351
FAX 208 / 775-3509

February 10, 1995

Dave Carlson
Water Right Agent, Adjudications
Department of Water Resources
900 Skyline Dr.
Idaho Falls, Idaho 83402-1718

RECEIVED

FEB 13 1995

Department of Water Resources
Eastern District Office

Dear Mr. Carlson:

In establishing evidence for our two claims A29-10029 and A29-04069 the following documents are provided for our claimed priority dates.

A29-10029 A signed affidavit is enclosed which states that in 1928 water was pumped directly out of the Portneuf River and used for the production of Portland Cement.

A29-04069 A copy of an audit report is enclosed which states that well equipment was present during 1929.

If you need any additional information concerning these dates please do not hesitate to call me at (208) 775-3351.

Sincerely,



Barbara Beagles
Environmental/Safety Coordinator
Ash Grove Cement Co.

NOV 13 1995

ASH GROVE CEMENT COMPANY

February 10, 1995

WESTERN REGION
230 CEMENT ROAD
INKOM, IDAHO 83245-1543
PHONE 208 / 775-3351
FAX 208 / 775-3509

RECEIVED
FEB 13 1995
Department of Water Resources
Eastern District Office

Dave Carlson
Water Right Agent, Adjudications
Department of Water Resources
900 Skyline Dr.
Idaho Falls, Idaho 83402-1718

RE: Personal affidavit establishing water priority rights for Ash Grove Cement Company.

Dear Mr. Carlson:

During my employment with Idaho Portland Cement and Oregon Portland Cement (now Ash Grove Cement Company), I witnessed that prior to the installation of the first well in 1929 we pumped water out of the Portneuf River to supply our process with the necessary water. The date in which we pumped water out of the river would have been during the year of 1928.

Sincerely,


Mr. Frank Whitworth

On this tenth day of February, 1995, before me, Rhonda Anthony a Notary Public, personally appeared, Frank Whitworth, to me personally known, who being duly sworn, acknowledged to me that they executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal, the Day and Year first above written.


Notary Public Residing at McCammon, Idaho
My Commission Expires 2-10-95

POOR ORIGINAL

UNITED STATES
NEW YORK
AKRON
ATLANTA
BALTIMORE
BOSTON
BUFFALO
CHARLOTTE
CHARLOTTEVILLE
CHICAGO
CINCINNATI
CLEVELAND
DALLAS
DAYTON
DENVER
EL PASO
FORT WAYNE
HOUSTON
INDIANAPOLIS
JACKSON, MISS.
KANSAS CITY
LITTLE ROCK
LOS ANGELES
MASON CITY
MEMPHIS
MILWAUKEE
MINNEAPOLIS
NEW ORLEANS
OAKLAND
OKLAHOMA CITY
OMAHA
PHILADELPHIA
PHOENIX
PITTSBURGH
POCAHONTAS
PORTLAND, ME.
PORTLAND, ORE.
PROVIDENCE
RICHMOND
SALT LAKE CITY
SAN DIEGO
SAN FRANCISCO
SANTA BARBARA
SEATTLE
SPOKANE
ST. LOUIS
ST. PAUL
VIRGINIA
WICHITA
WILMINGTON

PACE, GORE & McLAREN

Accountants and Auditors

PARTNERS IN SPOKANE

ELLIS LE MASTER EUSTACE LE MASTER, C.P.A.
T.C. CANNON, C.P.A. A.C.A. E.C. DANIELS, C.P.A.

SYMONS BUILDING

SPOKANE, WASHINGTON

February 8, 1930

CANADA
MONTREAL
OTTAWA
TORONTO
WINNIPEG
REGINA
HAWANA
SANTIAGO DE CUBA
BASKATOON
CALGARY
EDMONTON
VICTORIA
VANCOUVER
CUBA
BRITISH ISLES
LONDON
BELFAST
BIRMINGHAM
DUBLIN
GLASGOW
LIVERPOOL
MANCHESTER
SHEFFIELD
CONTINENTAL EUROPE
THE HAGUE
AUSTRALIA
SYDNEY

Department of Water Resources
Eastern District Office

Board of Directors,
Idaho Portland Cement Company,
Inkom, Idaho.

Gentlemen:

At your direction we have audited the accounts and records of the Idaho Portland Cement Company for the period from the date of incorporation to December 31, 1929. The results of our audit are presented in this report, which includes: (1) text of comments and explanatory detail; (2) statement of financial condition at December, 31, 1929; (3) statement of profit and loss for the seven months ended December 31, 1929; (4) schedules supplementing the foregoing statements.

The company was incorporated under the laws of the State of Idaho on July 20, 1928. After acquiring quarry property and land for a mill site, construction of the plant was begun. The plant was first operated for a short time in June, 1929, and was placed in full operation in July, 1929. Since very little manufacturing was done in the month of June, the end of the construction period has been fixed as June 30, 1929. The operating statements, however, cover a period of seven months as a small amount of cement was manufactured and sold in June.

POOR ORIGINAL

IDAHO PORTLAND CEMENT COMPANY

Report on audit of accounts and
records at December 31, 1929,
including statement of finan-
cial condition, statement of
profit and loss, and related
schedules

13 1935

PACE, GORE & McLAREN

Accountants and Auditors • Symons Block, Spokane, Wash.



State of Idaho

DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

FEBRUARY 13, 1992

ASH GROVE CEMENT COMPANY
6720 SW MACADAM AVENUE SUITE 300
PORTLAND OR 97219-2312

RE: CHANGE IN OWNERSHIP FOR A25-07306, A29-10029,
A29-07076, AND A29-04069

Dear Sirs:

The request for Change in Ownership concerning your Notices of Claim in the above reference has been processed and the Notices modified to reflect you as the new owner.

Enclosed are typed Notices with your name shown as the current owner. Review the forms and if there are other corrections or questions, feel free to contact this office.

If there are no questions or corrections, please keep these Notices for your records.

Respectfully submitted,

Dave Carlson
Water Rights Agent, Adjudication

DC:jt

Enclosure

File: "P"

MICROFILMED
NOV 13 1992

ASH GROVE CEMENT COMPANY

8900 INDIAN CREEK PARKWAY, SUITE 600, P.O. BOX 25900
OVERLAND PARK, KANSAS 66225
PHONE 913 / 451-8900
FAX 913 / 451-8324

EILEEN F. SOLLARS
ASSISTANT GENERAL COUNSEL

February 7, 1992

RECEIVED
FEB 10 1992

Department of Water Resources

Idaho Department of Water Resources
ATTENTION: Adjudication Bureau
Statehouse Mail
Boise, Idaho 83720-9000

Re: A25-07306, A29-10029, A29-07076 and A29-04069

Dear Sir or Madam:

Enclosed is a New Property Owner Notice of Change of Water Right Ownership respecting certain claims currently registered under the name of Ash Grove Cement West, Inc., a Nevada corporation ("AGW"). This Notice is being filed in connection with the recent merger of AGW into its corporate parent, Ash Grove Cement Company, a Delaware corporation ("Ash Grove"). Prior to the merger, AGW was a wholly-owned subsidiary of Ash Grove. As a result of the merger, AGW was merged into and became a part of Ash Grove, and Ash Grove succeeded to all of the assets of AGW, including the subject claims.

As a result of the merger, business is now being conducted in the Ash Grove name. However, no change in facilities or operations occurred as a result of the merger.

Also enclosed is an Affidavit Respecting Water Rights executed on behalf of both corporations. A copy of the Articles of Merger, certified by the Delaware Secretary of State, is attached as an exhibit to the affidavit. A copy of each of the Notices of Claim to a Water Right is also enclosed.

If you require any further documentation respecting the merger, please contact the undersigned. Regular communication respecting the claims should continue to be addressed to the same address as before.

Sincerely,

Eileen F. Sollars

EFS/kp

Enclosures



PORTLAND CEMENT ASSOCIATION

MICROFILMED

NOV 13 1992



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

RECEIVED
FEB 10 1992
Department of Water Resources

DATE OF CLOSING: _____ See attached legal descriptions.

LEGAL DESCRIPTION OF PROPERTY: Township _____ Range _____
Section _____, 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____, BM.
Lot _____, Block _____, Subdivision/Townsite _____.
If you have additional legal descriptions, please attach separate sheet.

☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

☐ Water Right Number(s)
Assigned by IDWR: A25-07306, A29-10029, A29-07076, and A29-04069

☐ Name and Address of Former Owner/Claimant(s)(Seller): Ash Grove Cement West, Inc.
6720 S.W. Macadam Avenue - Suite 300
Portland, Oregon 97219-2312

☐ New Owner/Claimant (Purchaser): Ash Grove Cement Company

☐ New Mailing Address: 6720 S.W. Macadam Avenue - Suite 300
Portland, Oregon 97219-2312

☐ New Telephone Number: (503) 293 - 2333

☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes XX no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

☐ Attach proof of ownership, describe proof attached: _____

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

☐ Signature of New Owner/Claimant(s) ASH GROVE CEMENT COMPANY [Signature] Date _____
By: John H. Ross III, Vice President Date 12/31/91

☐ Signature of Former Owner/Claimant(s) ASH GROVE CEMENT WEST, INC. [Signature] Date _____
By: George M. Wells, President Date 12/31/91

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: _____ By: _____

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: _____ By: _____

Claim Numbers of Split, if any:

MICROFILMED

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

NOV 13 1992

RECEIVED
FEB 10 1992

AFFIDAVIT RESPECTING WATER RIGHTS

Department of Water Resources

The undersigned, being first duly sworn, state as follows:

1. Effective 11:59 p.m. Central Standard Time December 31, 1991, Ash Grove Cement West, Inc., a Nevada corporation ("Ash Grove West"), whose address is 6720 S.W. Macadam Avenue, Suite 300, Portland, Oregon 97219-2312, will be merged with and into Ash Grove Cement Company, a Delaware corporation ("Ash Grove"), whose address is 6720 S.W. Macadam Avenue, Suite 300, Portland, Oregon 97219-2312 ("Merger"). A certified copy of the articles of merger is attached hereto as Exhibit A and incorporated herein by this reference.

2. Prior to the Merger, Ash Grove West was the owner of certain notices of claims to water rights, more particularly described on Exhibit B attached hereto and incorporated herein by this reference ("Water Rights").

3. As a result of the Merger, Ash Grove will succeed to all of Ash Grove West's right, title, and interest in and to the Water Rights by operation of law.

4. The Merger has been duly authorized by the respective shareholder(s) and board of directors of Ash Grove and Ash Grove West.

ASH GROVE CEMENT COMPANY,
a Delaware corporation

By John H. Ross III
John H. Ross III, Vice President

ASH GROVE CEMENT WEST, INC.,
a Nevada corporation

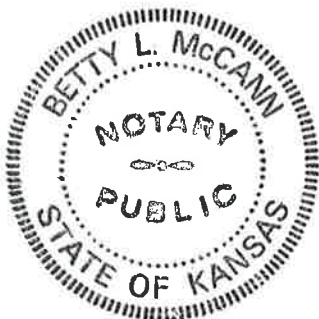
By George M. Wells
George M. Wells, President

MICROFILMED

NOV 13 1992

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

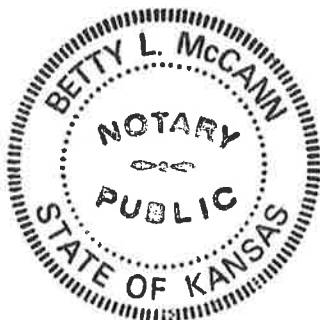
On December 31, 1991, personally appeared John H. Ross III, the Vice President of Ash Grove Cement Company, a Delaware corporation, and acknowledged the foregoing instrument on behalf of the corporation.



Betty L. McCann
Notary Public for Johnson County, Kansas
My Commission Expires April 10, 1994
Residing at Overland Park, Kansas

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On December 31, 1991, personally appeared George M. Wells, the President of Ash Grove Cement West, Inc., a Nevada corporation, and acknowledged the foregoing instrument on behalf of the corporation.



Betty L. McCann
Notary Public for Johnson County, Kansas
My Commission Expires April 10, 1994
Residing at Overland Park, Kansas

After Recording Return To:

Ms. Eileen Sollars
Assistant General Counsel
Ash Grove Cement Company
8900 Indian Creek Parkway
Suite 600
Post Office Box 25900
Overland Park, Kansas 66225

MICROFILMED
NOV 13 1992

State of Delaware

RECEIVED
FEB 10 1992

Department of Water Resources

Office of Secretary of State

I, JEFFREY D. LEWIS, ACTING SECRETARY OF STATE OF THE STATE OF DELAWARE DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP OF ASH GROVE CEMENT COMPANY, A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, MERGING ASH GROVE CEMENT WEST, INC. A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF NEVADA, PURSUANT TO SECTION 253 OF THE GENERAL CORPORATION LAW OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE NINETEENTH DAY OF DECEMBER, A.D. 1991, AT 11:40 O'CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CORPORATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF DELAWARE.

* * * * *



572007020

Jeffrey D. Lewis
ACTING SECRETARY OF STATE

AUTHENTICATION: *3301156

DATE: 01/07/1992

MICROFILMED
NOV 13 1992

CERTIFICATE OF OWNERSHIP
MERGING
ASH GROVE CEMENT WEST, INC.
INTO
ASH GROVE CEMENT COMPANY
(PURSUANT TO SECTION 253 OF THE
GENERAL CORPORATION LAW OF DELAWARE)

Ash Grove Cement Company, a corporation incorporated on the 8th day of August, 1949, pursuant to the provisions of the General Corporation Law of the State of Delaware does hereby certify that this corporation owns all the capital stock of Ash Grove Cement West, Inc., a corporation incorporated under the laws of the State of Nevada, and that this corporation, by a resolution of its board of directors duly adopted at a meeting held on the first day of May, 1991, determined to and did merge into itself said corporation, Ash Grove Cement West, Inc., said merger to be effective at 11:59 p.m. Central Standard Time on December 31, 1991. The resolution is in the following words to wit:

WHEREAS, Ash Grove Cement Company, a Delaware corporation ("Ash Grove") owns all of the issued and outstanding common stock of Ash Grove Cement West, Inc., a Nevada corporation ("Ash Grove West"), and it is the desire of the board of directors of Ash Grove to merge Ash Grove West into Ash Grove;

NOW, THEREFORE, BE IT RESOLVED, that Ash Grove cause the merger of Ash Grove West into Ash Grove so that Ash Grove will succeed to all of the assets, liabilities and business of Ash Grove West pursuant to the laws of Nevada and Delaware.

FURTHER RESOLVED, that the appropriate officers of Ash Grove be, and each of them hereby is, authorized and empowered to take such action as may be necessary or which they or any of them deem appropriate to cause the said merger to be effected under the laws of Nevada and Delaware at such times and upon such terms and conditions as they or any of them deem appropriate.

IN WITNESS WHEREOF, Ash Grove Cement Company has caused this certificate to be signed by its President and attested by its Secretary, and its corporate seal to be hereto affixed, the 9th day of December, 1991.

ASH GROVE CEMENT COMPANY

(SEAL)

ATTEST:

By James P. Sunderland
President

Kurtis W. Sunderland
Secretary

MICROFILMED
NOV 13 1992

STATE OF KANSAS)
) SS
COUNTY OF JOHNSON)

On this 9th day of December in the year 1991,
personally came before me, the undersigned, a Notary Public in
and for the state and county aforesaid, James P. Sunderland,
President of Ash Grove Cement Company, a corporation of the state
of Delaware, and the corporation described in and which executed
the foregoing certificate, known to me personally to be such, and
he the said James P. Sunderland as such president, duly executed
the said certificate before me and acknowledged the foregoing
certificate to be his act and deed and the act and deed of said
corporation and that the facts stated therein are true; that the
signature of the president of said corporation to the foregoing
certificate is in the handwriting of the said president of the
corporation, and that the seal affixed to said certificate and
attested by the secretary of said corporation is the common or
corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my notarial seal the day and year last above written.



Betty L. McCann
Notary Public

EXHIBIT B

WATER RIGHTS

IDWR Identification No.

Location

A25-07306

SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, T2N, R37E,
Bonnevillie County, Idaho

A29-10029

SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, NW $\frac{1}{4}$ NE $\frac{1}{4}$
and NE $\frac{1}{4}$ NW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ of
Section 28, T7S, R36E, Bannock
County, Idaho

A29-07076

SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and
NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, T7S, R36E,
Bannock County, Idaho

A29-04069

SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, T7S, R36E,
Bannock County, Idaho

MICROFILMED

NOV 13 1992

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF DENYING EXTENSION OF THE
PROOF DUE DATE FOR PERMIT NO. 29-7151
IN THE NAME OF IDAHO PORTLAND CEMENT CO.

ORDER

WHEREAS, on August 6, 1973, the Idaho Portland Cement Co. applied to the Department of Water Resources for a permit to appropriate 0.67 cubic feet per second of water from a groundwater source within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 28, Twp. 7S, Rge. 36E, B. 11., Bannock County, for the purpose of industrial use; and,

WHEREAS, on September 11, 1973, the Department approved said application and issued Permit No. 29-7151 with the condition that proof of construction of works and application of water to beneficial use be submitted on or before September 1, 1978; and,

WHEREAS, on June 30, 1978, the Department notified the permit holder by certified mail that proof of beneficial use was due and instructed the permit holder as to the steps to make said proof; and,

WHEREAS, on July 6, 1978, the Department received a request for extension of the time within which to submit proof of beneficial use of water; and,

WHEREAS, in reviewing the extension request the Department finds that the permit holder has not proceeded with diligence in the completion of the project;

IT IS THEREFORE, HEREBY ORDERED that the request for extension of time for Permit No. 29-7151, be and is, DENIED.

Dated this 18 day of July, 1978.


C. STEPHEN ALLRED
Director

CSA:JG:kw



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE: 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 384-2215

September 7, 1978

Idaho Portland Cement Co.
Inkom,
Idaho 83245

RE: Permit No. 29-7151

Gentlemen:

You are hereby notified that under the provisions of Section 42-218a of the Idaho Code, Permit No. 29-7151 has lapsed since you have not notified us that you have completed the project by the date required on your permit. You were provided forms for that purpose in our notice to you dated June 30, 1978.

Your permit cannot be reinstated unless you submit the proof of beneficial use affidavit, enclosed, or show other reasonable cause why the permit should be reinstated within 60 days from the date of this lapse notice.

C. STEPHEN ALLRED

Director

CSA:jfr

Encl.

State of Idaho
Department of Water Resources

4 well

WATER RIGHT LICENSE

WATER RIGHT NO. 29-07855

Priority: October 18, 1988

Maximum Diversion Rate:

0.67 CFS

Maximum Diversion Volume:

438.5 AF

This is to certify, that ASH GROVE CEMENT WEST INC
230 CEMENT RD
INKOM ID 83245

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated October 18, 1988; and has submitted Proof of Beneficial Use on April 20, 1989. An examination indicates that the works have a diversion capacity of 0.720 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
INDUSTRIAL	01/01 to 12/31	0.67 CFS	438.5 AF

LOCATION OF POINT(S) OF DIVERSION:

NENE , Sec. 28, Township 07S, Range 36E
BANNOCK County

PLACE OF USE: INDUSTRIAL

TWN RGE SEC

07S 36E 21

SWSE

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. When water used under this right is discharged into the natural channel, settling ponds must be maintained which are capable of reducing the silt load to such a level that the quality of water will not be impaired for other beneficial uses.
6. Water used under this right when discharged into a natural channel or subsurface system shall meet Idaho Water Quality Standards.
7. Industrial use is for a cement processing plant.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

March 7, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

ASH GROVE CEMENT WEST INC
230 CEMENT RD
INKOM ID 83245

RE: WATER RIGHT NO. 29-07855

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. The license 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 unless a party petitions for reconsideration or files an exception and/or brief 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 twenty-one (21) 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. Otherwise, this preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review the preliminary order, the Department 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 Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department 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 Department in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department 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 Department 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.

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen". The signature is written in dark ink and is positioned above the typed name and title.

Shelley W. Keen
Water Rights Supervisor

SK:ph

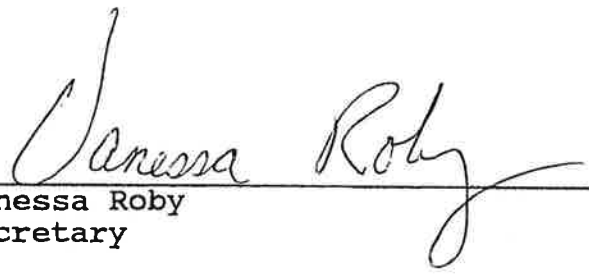
Enclosure

CERTIFICATE OF MAILING

I hereby certify that on the 7th day of March, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

Water Right No. 29-07855

ASH GROVE CEMENT WEST INC
230 CEMENT RD
INKOM ID 83245



Vanessa Roby
Secretary

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215



R. Keith Higginson
Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

September 11, 1973

#3
well

Re: Permit No. 29-7151

Idaho Portland Cement Co.
Inkom,
Idaho 83245

Gentlemen:

Enclosed is a copy of your approved Application for Permit No. 29-7151. We direct your attention to the conditions of approval as listed on the fourth page.

Be sure to note that a special condition requiring you to install and maintain a measuring device at your point of diversion has been placed upon your permit. We are enclosing a letter describing different types of measuring devices accepted by this office.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:cd

Enclosures

RECEIVED
1973 SEP 11 10 52 AM
Department of Water Administration

POOR ORIGINAL

Schedule A-2

IDAHO PORTLAND CEMENT COMPANY

Plant and Equipment at December 31, 1929

PLANT:	Cost	Depreciation Rate	Reserve for depreciation	Depreciated Cost
Clearing land	\$ 661.40	-	\$ -	\$ 661.40
Railroad in yard:				
Rails	3,049.20	4%	60.98	2,988.22
Trestle	1,758.42	10	87.63	1,670.79
Grading, roadway, etc.	4,873.27	-	-	4,873.27
Machine shop:				
Buildings	1,456.31	4	29.13	1,427.18
Equipment	9,761.71	10	487.78	9,273.93
Coal and clinker storage	469.68	-	-	469.68
Kiln stack	8,423.28	2	84.23	8,339.05
Tool shed	144.23	5	3.60	140.63
Rock storage bin:				
Bin	4,630.82	10	219.80	4,411.02
Equipment	2,990.36	10	149.52	2,840.84
Office building	2,656.31	5	65.96	2,590.35
Kilns	77,297.26	4	1,543.75	75,753.51
Stiff-leg derrick	13,628.58	10	673.93	12,954.65
Quarry railroad:				
Rails	1,603.63	4	32.07	1,571.56
Roadway	4,189.27	-	-	4,189.27
Compeb mills:				
Building	11,633.76	3	174.51	11,459.25
Equipment	99,758.62	5	2,423.97	97,334.65
Crushers	11,022.96	10	549.01	10,473.95
Well	403.36	-	-	403.36
Well equipment	1,658.95	10	82.95	1,576.00
Well house	235.71	5	-	235.71
Slurry tanks	22,613.74	3	275.23	22,338.51
Fence	294.94	10	14.75	280.19
Carpenter shop and storehouse	212.66	5	5.29	207.37
Coal mill and firing house:				
Building	7,358.14	3	97.75	7,260.39
Equipment	19,744.26	4	392.86	19,351.40
Water tank	404.26	10	19.82	384.44
Substation:				
Building	2,183.86	2	21.84	2,162.02
Equipment	11,315.63	5	282.89	11,032.74
Switch house:				
Building	801.17	5	20.03	781.14
Equipment	6,160.82	5	153.34	6,007.48
Clinker drag and elevator	8,051.37	5	200.97	7,850.40
Dust chamber	7,073.97	4	139.35	6,934.62
Slurry pipe line system	3,128.84	4	74.22	3,054.62
Water pipe line system	2,460.98	5	60.12	2,400.86

NOV 13 1929

Identification No. 29-7151

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

143
RECEIVED
JUN 11 1961

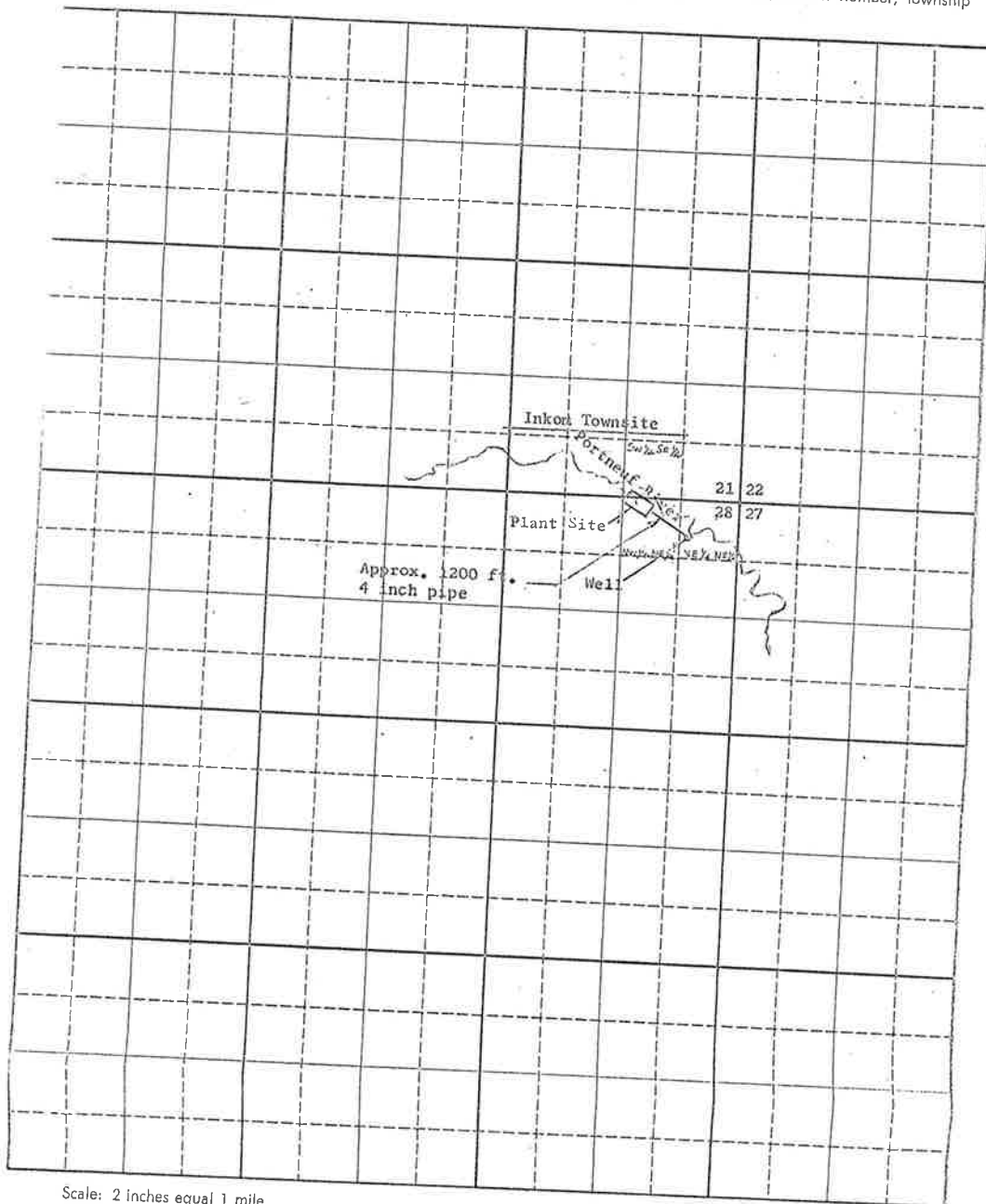
1. Name of applicant IDAHO PORTLAND CEMENT CO.
post office address Inkom, Idaho 83245
2. Source of water supply Ground Water which is a tributary of _____
3. a. Location of point of diversion is NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 28 Township 7S
Range 36E B.M. Bannock County; additional points of diversion if any: _____

b. If water is not consumed, it will be discharged into NA at a point in _____
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range B.M.
4. Water will be used for the following purposes:
Amount 67 for industrial purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 0.67 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 25 HP Submersible pump - - water
to be pumped into approx. 1200 ft. of 4 inch pipe buried below frost line.

b. Height of storage dam NA feet, active reservoir capacity NA acre feet; total reservoir
capacity NA acre feet, materials used in storage dam: NA
Period of year during which storage will occur NA to NA inclusive.
(Mo. Day) (Mo. Day)
7. a. Proposed well diameter is 10 inches; proposed depth of well is 200 feet.
(Mo. Day) (Mo. Day)
b. Time required for the completion of the works and application of the water to the proposed beneficial use
is 5 years.
c. Estimated construction cost is \$ 7500
8. Description of proposed uses:
a. If water is not for irrigation:
(1) Give the place of use of water: SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 21 Township 7S
Range 36E B.M. _____
(2) Amount of power to be generated: NA hp under NA feet of head.
(3) List number of each kind of livestock to be watered NA

(4) Name of municipality to be served NA, or number of families to be
supplied with domestic water _____
(5) If water is to be used for other purposes describe: Industrial - - Manufacture of
Cement

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



Scale: 2 inches equal 1 mile

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

Applicant
D. P. Bassett, Plant Manager

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

[illegible]

Total number of acres to be irrigated.

c. Describe any other water rights used for the same purposes as described above. Total number of acres to be irrigated _____

9. a. Who owns the property at the point of diversion Idaho Portland Cement Co. Div. Oregon Portland
b. Who owns the land to be irrigated or place of use Cement Co.

b. Who owns the land to be irrigated or place of use Portland Cement Co. Div. Oregon
Cement Co. NA

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing _____

10. Remarks This well was drilled starting Jan. 9, 1973 and finished Feb. 16, 1973 by Sigman Well drilling Co. of 2550 So. 5th, Pocatello, Idaho. The total depth of the well is 200 ft. and is cased to a depth of 55 ft. with 10 inch casing. The usage of water from this well will be for the manufacture of cement. It will be mixed with the raw material, which is pulverized limestone to form a slurry which is pumped into a rotary kiln- the water is driven off in the form of steam to the atmosphere. Some of the water will also be used as cooling water for bearings on the machinery. This cooling water is the only water that will be discharged into the Portneuf River. There will be no contamination with the cooling water and the temperature as it enters the river will be approx. 60°F. All sewage from the plant goes into the sewer system of the City of Inkom.

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: A29-04069
Date Received: 10/18/1988
Receipt No: E003255
Received By: _____

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

1. Name: ASH GROVE CEMENT COMPANY 503-293-2333
Address: 6720 SW MACADAM AVE
SUITE 300
PORTLAND OR 97219-2312

2. Date of Priority: JUN 1, 1937

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07S	36E	21	SW	SE			BANNOCK

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
INDUSTRIAL	01/01	12/31	0.780		

7. Total Quantity Appropriated is:
0.780 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
I/MANUFACTURE CEMENT.

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	36E	21	SW	SE		INDUST	

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:

14. Remarks:

2 P/D SWSE, S21, T7S, R36E.

15. Basis of Claim: STATUTORY CLAIM

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): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

SCANNED

JUN 13 2001

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: A29-04069
Date Received: 10/18/1988
Receipt No: E003255
Received By: ENC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Ash Grove Cement Co

c/o

1. Name: ASH GROVE CEMENT WEST, INC. 208-775-3351
Address: 150 CEMENT RD.
INKOM, ID 83245

2. Date of Priority: JUN 01, 1937

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	36E	21	SW	SE			BANNOCK

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
INDUSTRIAL	01/01	12/31	0.780		

7. Total Quantity Appropriated is:
0.780 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
I/MANUFACTURE CEMENT.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	36E	21	SW	SE		INDUST	

11. Place of use in counties: BANNOCK



MICROFILMED

A29-04069

Page

1

Date: 10/18/88 1992

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

13. Other Water Rights Used:

14. Remarks:

2 P/D SWSE, S21, T7S, R36E.

15. Basis of Claim: STATUTORY CLAIM

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: 1

For Organizations:

I do solemnly swear or affirm that I am PROCESS ENGINEER of _____
Title

ASH GROVE CEMENT WEST, INC., that I have signed the foregoing
Organization

document in the space below as PROCESS ENGINEER of _____
Title

ASH GROVE CEMENT WEST, INC. and that the statements contained in the
Organization

foregoing document are true and correct.

Henrich Valdbæk
Signature of Authorized Agent

PROCESS ENGINEER, ASH GROVE CEMENT
Title and Organization WEST, INC.

OCTOBER 18, 1988
Date

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 18 day
of Oct 19 88

Ernest Carlson
Notary Public

Seal

Residing at Blaho Falls ID
My Commission Expires 14 June 1994

SCALE

A29-~~0~~4069

