

PAGE 1 OF 2

JULY 17, 2017

TO: MR. ROGER WARNER
ROCKY MOUNTAIN ENVIRONMENTAL
482 CONSTITUTION WAY STE. 303
IDAHO FALLS, IDAHO 83420

FROM: B. C. PORTER & ASSOCIATES FOR:
ANDERSON ASPHALT PAVING, INC.
WALTERS REDI MIX
10828 HWY 75
BELLEVUE, IDAHO 83313

ROGER:

ON SATURDAY, JULY 15, 2017 ANDERSON ASPHALT AND WALTERS REDI MIX COMPLETED REQUIREMENTS FOR RECHARGE WATER FROM THE CANAL ON THE EAST BOUNDARY OF THEIR PLANT FACILITIES INTO THE MAIN GRAVEL PIT BY USE OF 5 GAS PUMPS 3" & 2" DISCHARGE PORTS.

PAGE 2 OF SUBMITTAL HAS TEST PUMP CHECKS AND CALCS FOR FLOW.

THANKS,

B.C. PORTER



CC: ANDERSON ASPHALT, WALTERS REDI MIX, B.C.P.



PUMP TEST DATA

FLOW CALCULATIONS

2 EA. HONDA 3" SEMI TRASH PUMPS GX-340

#1 110 GAL/ 19 SEC. = 19140 QPH

#2 110 GAL/18.9 SEC. #1 319 QPM

#2 319 QPM

1 EA. HONDA 3" SEMI TRASH PUMP

WHACKER PUMP

100 GAL/15.1SEC = 24000 QPH 400 QPM

1 EA. 2" SEMI TRASH PUMP GX 160

100 GAL/31 SEC. = 11820 QPH 197 QPM

1422 QPM

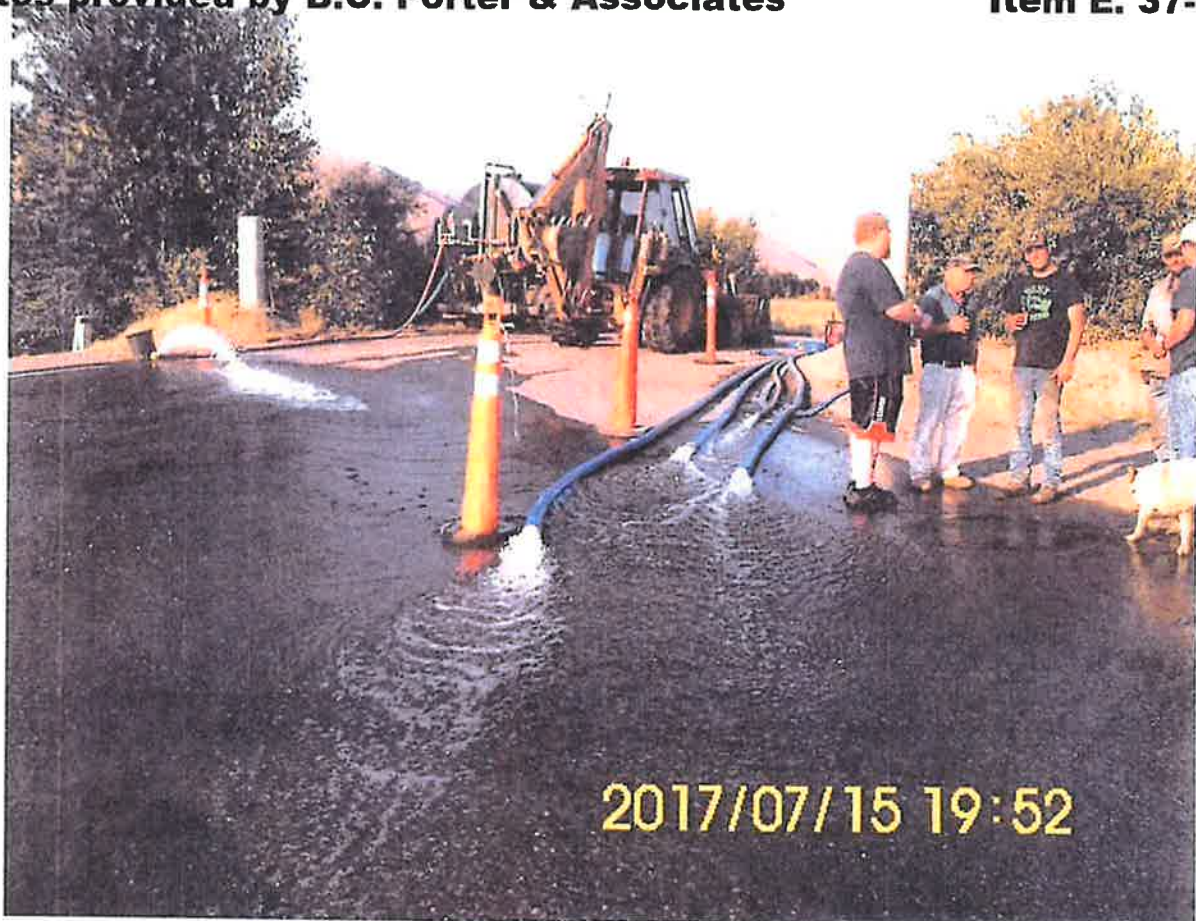
1422/ QPM = 85320 QPH

DURATION TIME OF PUMPING

10:00 A.M. TO 8:00 P.M. 10 HRS.

REQUIRED 2.5 ACRE FT. 814,625 GAL.

PUMPED 853,200 GAL.











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SEP 24 1996

JUN 20 1996

Form 202
10/92Department of Water Resources
Southern RegionDepartment of Water Resources
STATE OF IDAHOIdent. No. 37-08856DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Heath - Marshall, Inc. Phone 208/726-4421
Post office address c/o James P. Speck, Hogue Speck & Aanestad P.O. Box 987 Ketchum, ID 8
2. Source of water supply ground water which is a tributary of Big Wood River
3. Location of point of diversion is NE SW Govt. Lot
Sec. 13 Township 1N Range 18E B.M. Blaine County; additional
points of diversion if any: SE 1/4 SW 1/4, S. 13, T. 1 N., R. 18E., B.M., Blaine County
4. Water will be used for the following purposes:
Amount 1.15 for industrial purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 1.15 and/or (b)
cubic feet per second acre feet per annum
6. Proposed diverting works:
- a. Description of ditches, flumes, pumps, headgates, etc. 2 wells, pumps, pipelines to asphalt
hot mix plant and concrete plant
- b. Height of storage dam feet; active reservoir capacity acre-feet; total
reservoir capacity acre-feet; period of year when water will be diverted to storage:
 to inclusive.
- c. Proposed well diameter is (10) TEN inches; proposed depth of well is 200 feet.
- d. Is ground water with a temperature of greater than 85°F being sought? No
- e. If well is already drilled, when? N/A; Drilling firm
Well was drilled for (well owner)

EXHIBIT

tabbier

2

8. Description of proposed uses (if irrigation only, go to item 9):
- a. Hydropower; show total feet of head and proposed capacity in KW. _____
 - b. Stockwatering; list number and kind of livestock. _____
 - c. Municipal; show name of municipality. _____
 - d. Domestic; show number of households. _____
 - e. Other; describe fully. Industrial. See Addendum

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	18E	13									I		I	I					----

Total number of acres to be irrigated ----

10. Describe any other water rights used for the same purposes as described above. None
11. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____
12. Remarks: See Addendum

100-20-1000

100-20-1000

Received by P. E. Henthorn Date 7-9-96 Time 10 AM Preliminary check by GLS
Fee \$ 120⁰⁰ Receipted by JP # 5019329 Date 7-15-96
Publication prepared by MB Date 7/26/96 Published in Wood River Jour
Publication approved MB Date 8/23/96

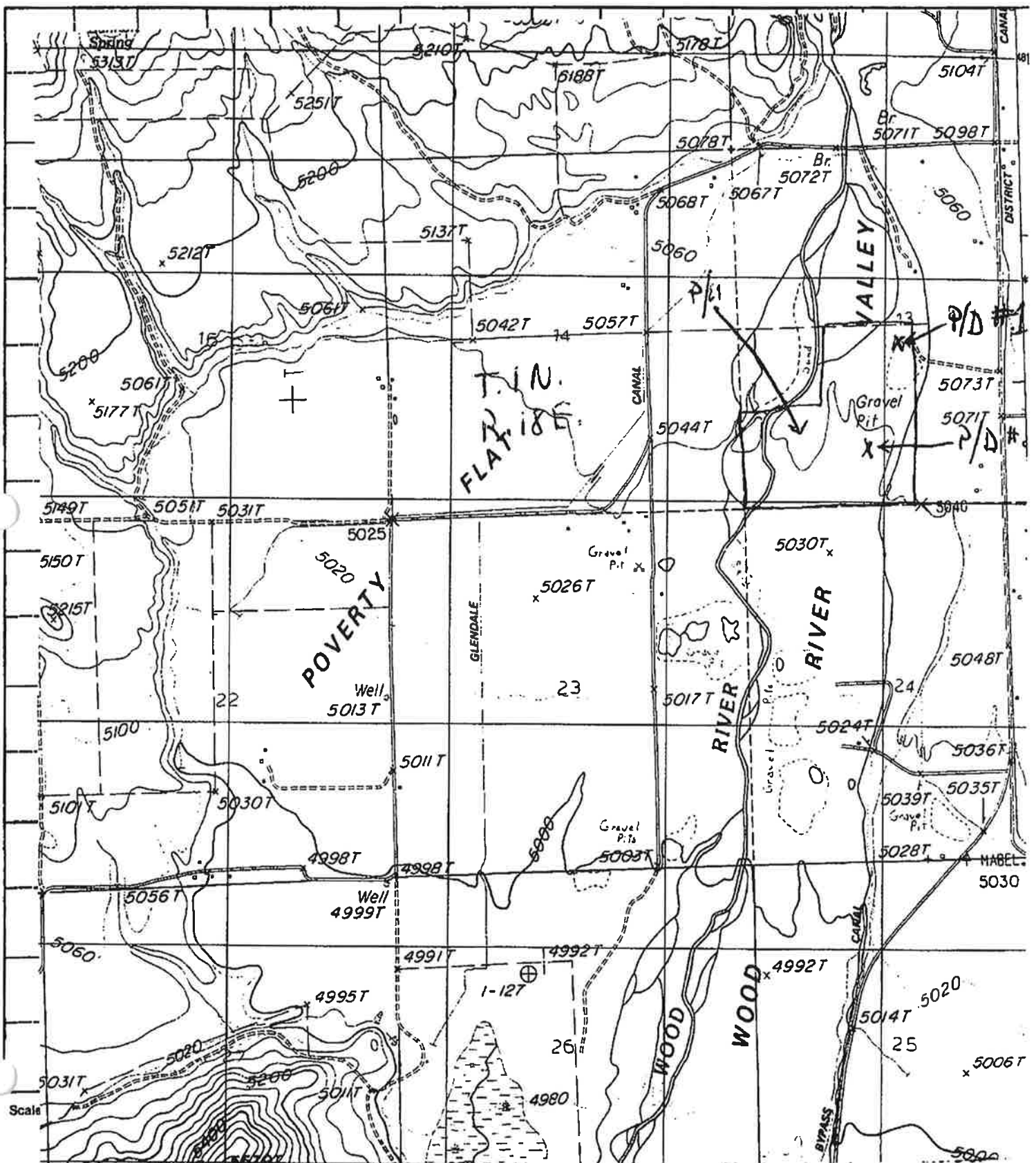
ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other:

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



the State of Idaho as herein set forth.

RECEIVED

JUN 20 1996

Department of Water Resources
Southern Region

ADDENDUM TO
APPLICATION FOR PERMIT
BY
HEATH - MARSHALL, INC.

The following is an Addendum to the Application for Permit submitted by HEATH - MARSHALL, INC.:

12. **Remarks:** This Application seeks a permit to divert ground water for industrial purposes within the Big Wood River Ground Water Management Area (the "Area"). The proposed points of diversion (two (2) wells) are within the Big Wood River Basin as defined in section I,A of the Management Policy for the Area (the "Policy"). Under section III of the Policy, approval of this Application may be granted if it is determined the water supply is adequate and other water rights will not be injured by the new diversion to a consumptive use. Applicant proposes the following plan of mitigation to satisfy these requirements.

MITIGATION PLAN

I. THE CONSUMPTIVE USE.

The water will be used for two different industrial purposes. First, approximately 100 gpm (0.23 cfs) will be diverted from one well to be used in an asphalt hot mix plant. This process removes moisture from the aggregate rock and burns hydrocarbon fuel, both of which result in an increase in the amount of water exiting the process over that required for the input. Thus, this use is truly non-consumptive. Second, approximately 400 gpm (0.92 cfs) is required for the production of concrete in an adjoining facility. This flow will be provided by the outflow from the asphalt hot mix plant operation and additional diversions from the second well. It is estimated that approximately 30 gallons of water is entirely consumed in the production of one (1) yard of concrete mix. The plant will produce approximately 10,000 yards per year, thus consuming approximately 300,000 gallons of water.

II. THE MITIGATION RIGHT.

Applicant is the owner of the following "stacked" irrigation water rights: 0.58 cfs of 37-00235A, 2.32 cfs of 37-00236 and 0.92 cfs of 37-00308, used for the irrigation of seventeen (17) acres. Applicant proposes to use those portions of these stacked water rights which irrigate one (1) acre as the "Mitigation Rights".

**ADDENDUM TO
APPLICATION FOR PERMIT
BY
HEATH - MARSHALL, INC.**

III. EXCHANGE OF WATER RIGHTS.

The Mitigation Rights have historically irrigated the following lands:

<u>TWSHP</u>	<u>RANGE</u>	<u>SECTION</u>	<u>1/41/4</u>	<u>IRRIGATED ACR</u>
1N	18E	13	NW $\frac{1}{4}$ SE $\frac{1}{4}$	14.5
1N	18E	13	SW $\frac{1}{4}$ SE $\frac{1}{4}$	2.5

Total number of irrigated acres: 17

One (1) acre within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ will no longer be irrigated by the Mitigation Rights. Applicant proposes to "exchange" that portion of the Mitigation Rights used to irrigate one (1) acre pursuant to the provisions of I.C. § 42-105 in return for the consumptive ground water diversion under the permit and license sought by this Application (the "Ground Water Right") on the following terms and conditions:

1. That portion of the Mitigation Rights used to irrigate one (1) acre shall remain in the Big Wood River to compensate for depletion of the Big Wood River flows available for diversions pursuant to valid water rights and for the supply of water to Magic Reservoir.
2. The Ground Water Right shall have the same priority date as the most senior of the Mitigation Rights (June 15, 1883) for the conjunctive administration of ground water and surface water diversions from the Big Wood River and its tributaries.
3. The Ground Water Right shall have a priority date of the date this Application is received by the Department for its administration solely with respect to other ground water rights,
4. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as a part of the diverting works for the Ground Water Right prior to any diversion thereunder.
5. Diversion of ground water pursuant to the Ground Water Right shall be administered by the watermaster of Water District 37, Big Wood River.
6. The maximum instantaneous diversion rate under the Ground Water Right

**ADDENDUM TO
APPLICATION FOR PERMIT
BY
HEATH - MARSHALL, INC.**

shall be 1.15 cfs.

7. The annual consumptive use of the Ground Water Right shall be limited to 2.5 acre feet.

8. Upon approval of this Application and issuance of the permit for the Ground Water Right, Applicant may file a claim for the Ground Water Right in the Snake River Basin Adjudication. The provisions of this "exchange" shall be incorporated into the Director's recommendations for the Mitigation Right and the Ground Water Right in the Director's Report for Basin 37 to be filed in the Snake River Basin Adjudication.

The consumptive use of that portion of the Mitigation Rights used to irrigate one (1) acre is approximately 2.5 acre feet per year, which is more than 2.5 times the amount of water projected to be consumed by the two industrial uses under the Ground Water Right. The Mitigation Right will be "left in the river", so that neither the total consumptive use of the water diverted from the interconnected ground water and surface flow resource shall not increase over the present uses. Thus, there will not be any injury to other surface water rights in the Big Wood River or its tributaries, or to the storage rights in Magic Reservoir. Finally, it should be noted that any return flows from the Mitigation Right are presently to the Big Wood River and not to Silver Creek. Thus, this proposal will not affect in any way the surface flows of Silver Creek or its tributary aquifer.

ALLEN!

*TO CLARIFY - THE 400
GPM INCLUDES A WASH
PLANT (WHICH IS A NON-
CONSUMPTIVE USE) ~
THEREFORE, 400 GPM FLOW
BUT 300 GPM CONSUMED.
CLAN*

Addendum

Field Examination of Permit No. 37-8856

At the request of Mr. Steven Visosky, Senior Water Resource Agent of IDWR, we are providing herein additional information to accompany the field examination of Permit No. 37-8856. Due to information available, or not available, field examiner recommendations are also amended.

Mitigation

The development period consisted of the years 1996-1999 (Proof was due on December 1, 1999). During that time, the water right and property were owned by Heath-Marshall, Inc. Unfortunately, no records are available to indicate that the mitigation of 2.5 AF of water recharged under the described surface water rights took place during the development period.

Quantity

The Concrete Batch Plant is already sufficiently addressed in the existing field examination.

The Asphalt Plant is a non-consumptive water use. Owner Larry Anderson indicated that their annual production in 2017 was 2800 tons. He also indicated that their peak diversion rate is higher than the value (0.23 cfs) previously provided on the field examination. The previously recommended amount was limited by the amount authorized under the water right permit.

At peak operating capacity, their diversion rate ranges from 150 gpm to 180 gpm. The plant can process 30 tons/hour under that diversion rate. For the purpose of calculating annual volume, a diversion rate of 180 gpm, or 0.4 cfs, will be used.

$$\text{Volume} = 2800 \text{ tons} / (30 \text{ ton/hr}) = 93.33 \text{ hrs operation} \times 180 \text{ gpm} \times 60 \text{ min/hr} = 1,007,964 \text{ gal}$$

$$\text{AF} = 1,007,964 \text{ gal} / 325,850 \text{ gal/af} = \mathbf{3.1 \text{ AFA}}$$

Well Capacity

The Concrete Batch Plant and the Asphalt Plant were in full operation the day the flowmeter was read. All systems were running at maximum capacity simultaneously. The flowmeter indicated a total system capacity of 1.84 cfs.

Overlapping Rights

Domestic water right 37-12966 pertains to a small well adjacent to the Asphalt Plant office trailer. It is specific to the office location. In the case of a broken line or well failure, the domestic well is used to temporarily provide water to the plant through a temporary connection.



Recommendations

The condition to mitigate 2.5 AFA through recharge into a gravel pit does not appear to have been met during the development period. It is recommended that only the non-consumptive portion for the Asphalt Plant be licensed as follows:

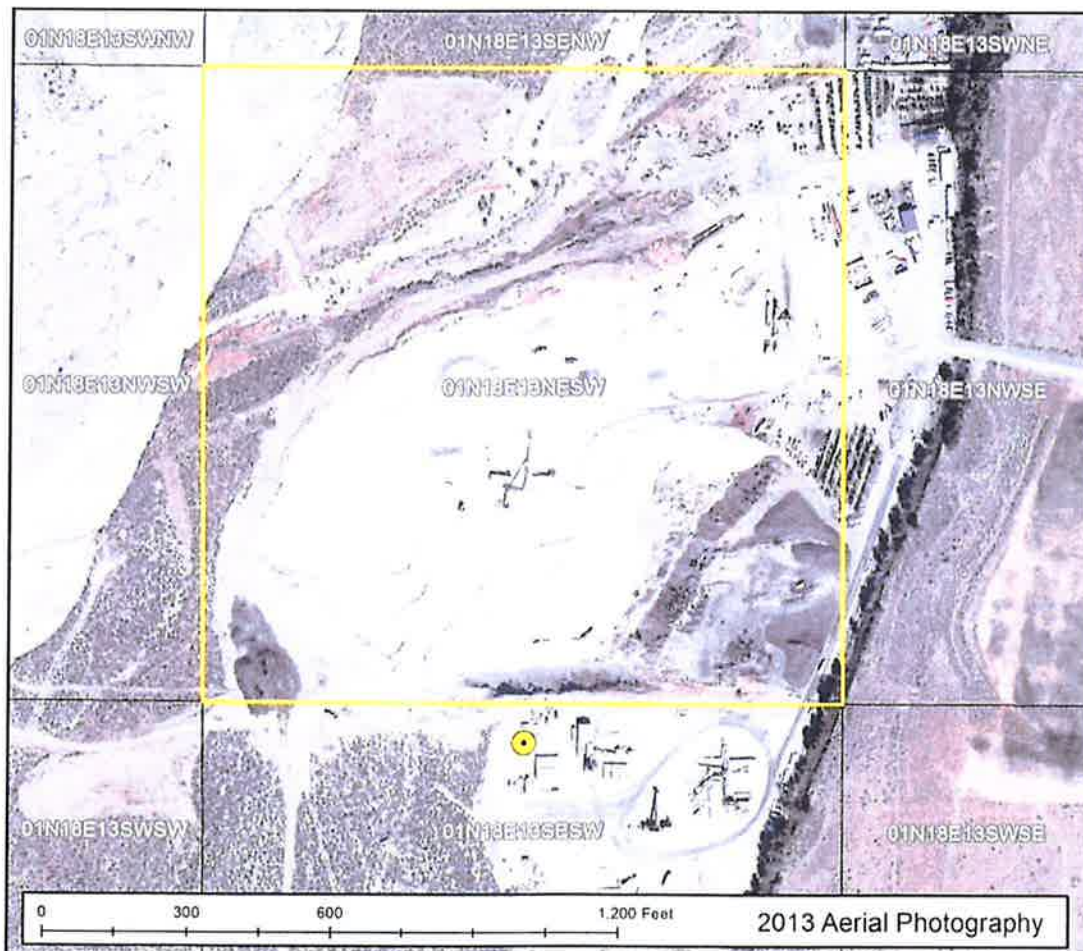
Beneficial Use	Period of Use	Rate of Diversion (cfs)	Annual Volume (afa)
Industrial	01/01 – 12/31	0.4 cfs	3.1 afa

Amendments:

Recommended POD: Since the Asphalt plant is only connected to the 40 hp well, it is recommended that only this well is an authorized point of diversion.

Recommend POU: NESW, Section 13, T1N, R18E

See map below for illustration of proposed POU and POD.



MEMORANDUM

TO: Water Right File 37-8856

FROM: Daniel Nelson – Analyst 3

DATE: February 15, 2018

SUBJECT: Licensing Review of Water Right 37-8856

This field exams for these rights were performed by Certified Field Examiner Paul H Scoresby who is associated with Rocky Mountain Environmental. Please see Ownership Change memo for additional information.

History:

In Steven Visosky's July 26, 2017 Notice of Intent to Void Permit (Notice) correspondence, Mr. Visosky provides an excellent representation of the history of this permit up to July 26, 2017. After the July 26th, Notice was sent, the Idaho Dept. of Water Resources (Department) received a water right field report from Mr. Scoresby on August 9, 2017. This field examination was determined to be incomplete and was returned on December 7, 2017. Roger Warner of Rocky Mountain Environmental called on December 12, 2017 to discuss the letter written by Mr. Visosky.

On January 11, 2018, the Department received an addendum to the field examination along with the original field report. This memo will review the information submitted in the addendum.

This matter is further complicated by a change of ownership of both the asphalt plant and the cement plant associated with this permit. Although both facilities use the same wells, they are operated as totally separate business, with separate water systems.

Beneficial Water Uses and mitigation:

This permit was originally developed for 2 industrial process. According to the application for permit, 0.23 cfs of water was to be diverted to an asphalt plant, and the water would then be delivered to a cement plant where it would co-mingle with additional water from the well to mix with the concrete. The application for permit states that the water use in the asphalt plant would be totally non-consumptive, since all of the water run through the asphalt plant would be returned to the cement plant. It was also determined that the cement plant would be a consumptive use, since the water mixed with the concrete would not be made available to local aquifer.



In order to cover the consumptive portion of this permit, the permit holder was required to run a portion of an irrigation right into the gravel pits to mitigate the consumptive use. Although water was diverted for mitigation in 2017, there was no evidence that mitigation of the permit had occurred during the development period. Therefore, this permit cannot be licensed for the consumptive portion of the permit. The water use for the cement plant cannot be included in this permit.

A determination then had to be made whether or not the water from the asphalt plant was used in a non-consumptive manner. According to the addendum supplied by Mr. Scoresby, the asphalt plant now discharges all of the water diverted through their water system into the surrounding gravel pits where it can seep back into the aquifer. This use could be considered to be non-consumptive, since the majority of the water is allowed to return to the aquifer. The amount of water lost to evaporation would be negligible.

It has been determined that we are able to move forward with the licensing of the amount of water used in the asphalt plant.

Point of Diversion and Place of Use:

The permit included 2 wells in the NESW and SESW of Section 13 in Township 1 North, Range 1 East. The original field report included both of these wells, but the addendum confirms that only the well in the SESW of Section 13 is used for the asphalt plant. Therefore, the well in the SESW of Section 13 will be the only well recommended on the permit.

The permit stated that the place of use included the NESW, SWSW, and SESW of Section 13 in Township 1 North, Range 1 East. The original field report limited the place of use to only the NESW and the SESW of Section 13. The addendum states further reduced the place of use to just the NESW of Section 13. Therefore, the place of use in the NESW of Section 13 will be the only place of use recommended on the license.

Diversion Rate:

The application for permit states that only 0.23 cfs was proposed to be used in the asphalt plant. The water right examiner state in the original field report submitted that 0.23 cfs was diverted to the asphalt plant. However, in the addendum, Mr. Scoresby stated that the asphalt plant actually diverted approximately 0.40 cfs. The permit did not delineate between the water use between the two facilities. Since the cement plant diversion rate cannot be used, it has been determined that we can license the entire 0.40 cfs recommended in the addendum can be recommended for the license.

Diversion Volume:

No volume was calculated for the asphalt plant in the original field report by Mr. Scoresby. However, the addendum included calculations of the volume diverted to the asphalt plant. These calculation seem reasonable, and are recommended to be used on the license.

Overlap:

Water right 37-12996 is domestic water right for use in a small office associated with the asphalt plant. It is not tied into the industrial use water system, so it should be considered an additional water use. The addendum confirms that this water right is from a well adjacent to the office trailer and not included with the industrial system.

Conditions:

Since the consumptive portion of this right has been removed, many of the conditions must be change or removed to address the allowable consumptive use. Condition 1 (005) will be changed to condition R05 as is standard. Condition 2 on the permit will be deleted and replaced with condition R43 and a condition that states that the industrial use is for an asphalt batch plant. Condition 3 (053) will be dropped at licensing as is standard. Condition 4 (052) will be changed to 933 and 935 as is standard. Conditions 5 (46B), 6 (028), 7 (046), 8 (26A), and 9 (052) will all be dropped at licensing.

In order to ensure that the water use remains consumptive, an additional condition will need to be added to ensure the current practices are being maintained. The condition will need to be similar to the following:

All water diverted through the asphalt plant must be discharged into the surrounding gravel pit and caused to seep into the ground.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT NO. 164

This is to certify that:

WALTERS READY MIX
PO BOX 390
REXBURG, ID 83440

RECEIVED

JUN 09 2017

DEPARTMENT OF
WATER RESOURCES

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
37-20833	11/15/2002	GROUND WATER	0.02	3.5	1.0	0.02	3.5
Combined Rental Totals			0.02	3.5	1.0	0.02	3.5

Term of Rental: This rental shall take effect when all parties have signed it and shall continue in effect until December 31, 2017.

Annual Rental Fee:

2017: \$59.50

The full fee for the rental of the above-described right(s) is \$59.50 for 2017. The rental fee includes an administrative fee of \$5.95 for 2017.

Total Water Use Authorized Under Rental Agreement Click here to enter text.

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate/Acre (CFS/AC)	Volume/Acre (AF/AC)
MITIGATION	0.02	2.5	NA		
Combined Total	0.02	2.5	NA		

** The authorized water usage reflects a reduction from the water right elements rented, to account for a change in the nature of use.*

Detailed water right conditions are attached.



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK RENTAL AGREEMENT NO. 164

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:


Signature of Renter

6-6-17
Date

James Walters
Printed Name

Manager
Title

*Title required if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

By 
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Date 6/9/2017

Rental approved by IDWR 

Date 6-9-2017

WATER SUPPLY BANK RENTAL AGREEMENT NO. 164

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SESW Sec. 13, Twp 01N, Rge 18E, BLAINE County

Beneficial Use Diversion Rate Volume
MITIGATION BY NON-USE 0.02 CFS 2.5 AF

BENEFICIAL USE & SEASON OF USE

Water Right No. From To
37-20833 4/15 10/31

RENTERS PLACE OF USE: MITIGATION BY NON-USE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	13									X		X	X					

RENTAL AGREEMENT CONDITIONS OF ACCEPTANCE

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other department application process.
3. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
4. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
5. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
6. Renter acknowledges and agrees that the Director may terminate authorization for the use of a water right based on a water right's priority date. This rental for mitigation by non-use may be ineffective if the mitigating water right is not in priority.
7. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
8. This rental agreement does not authorize the construction of a well.
9. Prior to diversion and use of water under this approval, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion, in accordance with Department specifications.
10. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.

11. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
12. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
13. The following rights are also diverted through point of diversion described above: Water Right Permit 37-8856.
14. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustrative purposes.
15. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
16. This rental for mitigation by non-use is associated with industrial use authorized by Permit 37-8856 and is effective for 2017 only.
17. This rental agreement does not authorize the described mitigation effort to be used as affirmation or recognition of any other purpose.

Idaho Water Resource Board

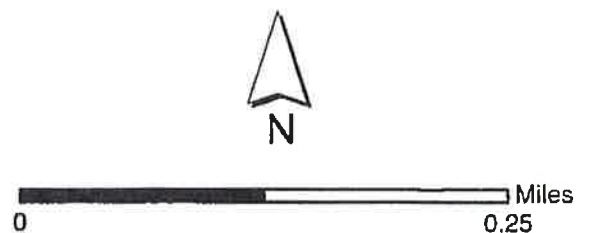
Attachment to Water Supply Bank Rental Agreement #164

Effective until December 31, 2017

This map depicts the rental place of use pursuant to the rental agreement and is attached to the agreement solely for illustrative purposes.



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



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

MAY 22 2017

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANKApplicant Name: Walters Ready Mix

Is this application being submitted with a lease application as a lease/rental package?

Yes ☐ No ☒

If yes, specify companion water rights in Section 4

This application must be completed according to the minimum requirement checklist below. This checklist is part of the rental application and must be included with the rental application. Applications that do not meet the minimum requirements will not be placed in the processing queue and may be returned until all minimum requirements have been met.

Rental applications should be submitted well in advance of the desired start date for the use of rental water. Rental applications may be processed as early as November 1 of the year prior to the intended use of rental water. Any rental application received on or before November 1 for use in the next year will be assigned a received date of November 1. Rental applications submitted more than one year in advance of the proposed start date for the use of rental water will not be accepted and will be returned to applicants. Rental applications may be returned to applicants if the desired start date for the use of rental water cannot be accommodated by the Water Supply Bank. Rental requests will not be accepted once the rental season of use period has concluded.

One rental application per beneficial use of water. For multiple beneficial uses of water, separate rental requests should be submitted for each unique beneficial use of water. One rental application can be submitted if you propose to rent water from multiple sources.

For additional instructions on completing a rental application, visit the Bank's website at http://idwr.idaho.gov/water_supply_bank.

MINIMUM REQUIREMENT CHECKLIST

Check All Items as Either Attached (Yes) or Not Applicable (N/A)

Yes

Completed *Application to Rent Water from the Board's Water Supply Bank*

Confirmation that this form has been printed single sided, per requirement of the Water Supply Bank

Attachment N/A Yes

2



A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request

3A



Detailed information on a proposed use of rental water

3F



Authorization from the owner/operator of the rental point(s) of diversion

3H



Water modeling to account for the impacts of the rental request

3J



Documents justifying a rate of flow greater than 0.02 cfs/acre

3K



Authorization from the owner/operator of the property at the proposed rental place(s) of use

4B



Explanation of how the rental water will sufficiently accomplish your rental purposes

4C



Explanation of consumptive use amounts for water rights experiencing a change in nature of use

Department Use Only – Proposed Water Right(s)

37-20833

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Walters Ready Mix

Mailing Address PO Box 390 Rexburg ID 83440
Street City State Zip Code
 Email Address _____ Phone Number 208-356-5491

B. Is this application being completed by an authorized representative on behalf of the applicant? Yes ☒ No ☐
 If yes, representatives (includes company employees if the applicant is a corporation, as well as legal counsel or consultants) should provide their information below if they desire to be included on correspondence with the rental applicant.

Representative Kristin Moore Professional Title Senior Water Right Analyst
 Organization Rocky Mountain Environmental Assoc. Relationship to Applicant consultant
 Mailing Address 482 Constitution Way Ste 303, Idaho Falls, ID 83402
 Email Address kristin.rmea@gmail.com Phone Number 208-524-2353

2. MAP

Create a map of the proposed point(s) of diversion, place(s) of use and water diversion, delivery and distribution systems. Make sure the rental place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to irrigate. Attach the map to this application and label it Attachment 2.

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

A. Describe why you desire to rent water and provide a detailed description of your proposed use. If the proposed use is not for irrigation, describe in detail how you determined the amount of rental water required. If the space below is insufficient, attach additional sheets as required and label them Attachment 3A:

For mitigation of Industrial use at an asphalt and concrete plant. The quantity proposed to be rented was determined through consumptive use evaluations of the industrial plants, requiring 2.5 AFA of mitigation. This rental should mitigate for 1 year of consumption by non-use of the rented water right.

B. Enter the desired and/or minimum rates of flow, volume, or irrigable acres requested for your rental purposes:

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Desired Acres (if applicable)
CFS	3.5 AF	0.01 CFS	2.5 AF	AC

* Sometimes water rights provide an exceptionally low rate per acre and/or low volume per acre. This section is meant to establish an acceptable range of water sufficient for your proposed water use. Please see question 4B and complete if necessary.

C. This section must be completed in full. Enter the proposed start date and latest possible start date for using rental water as well as the number of years you would like to rent water. The latest possible start is the latest possible date by which you would be willing to pay for a rental and be able to benefit from utilizing rental water.

Desired Start Date (month/day/year)	Latest Possible Start Date (month/day/year)	*Mark Desired Rental Duration (Calendar Years)					**Applicant's preference if rental application cannot be processed prior to the latest possible start?	
4/15/2017	7/15/2017	☒ 1	☐ 2	☐ 3	☐ 4	☐ 5	☒ Process application as soon as possible	☐ Return application to applicant

* The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.

** Per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right. Water Supply Bank rental applicants are not authorized to utilize rental water prior to the execution of an approved rental agreement. Rental requests may be returned to applicants if no water is available from the Bank to fulfill a rental request.

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

- D. Describe your water distribution system and how rental water will be delivered from the point(s) of diversion (POD) to the proposed place of use (POU):

Well diverts water into pipelines that deliver to washing and mixing locations.

- E. Describe the physical type (pump, headgate, etc.) and location of the POD from which rental water is proposed to be diverted:

POD Description	Water Source	Other Water Rights Diverted from this POD
1N 18E S13 SESW	Ground water	37-8856

If the POD(s) above are located where water is turned into a canal, lateral or ditch, or if they are located on your property but are serviced by water that is delivered via a canal, lateral or ditch, your rental request must include documented authorization from all relevant canal companies, irrigation districts and/or water delivery entities, confirming that they consent to your diversion of water from their system.

- F. Has documented consent from all relevant water delivery entities been obtained? Yes ☐ N/A ☒
If yes, include documented consent as Attachment 3F.

- G. Do any POD(s) identified in Question 3E divert from a water source that may require water modeling? Yes ☐ No ☒
Refer to the Water Modeling Requirements Information Sheet to determine if a rental POD may require water modeling.

- H. Has water modeling been provided with your rental request? Yes ☐ N/A ☒
If yes, label modeling Attachment 3 H.
Rental applications that require modeling will be returned if modeling is not provided.

- I. Specify the desired beneficial use of water and the requested season of use or number of acres required:

- ☐ Irrigation _____ (number of acres) Duration: Subject to IDWR standard seasons of use
- ☐ Commercial from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Stockwater from: _____ (mm/dd) to: _____ (mm/dd)
- ☒ Industrial from: 4/15 (mm/dd) to: 10/31 (mm/dd)
- ☒ Other: Mitigation from: 4/15 (mm/dd) to: 10/31 (mm/dd)

- J. For irrigation uses, do you propose to divert water at a rate greater than 0.02 cfs/acre? N/A ☒ Yes ☐ No ☐
If yes, justify the rate of flow and attach any supporting documents as Attachment 3J. Justification may include information on soil composition, conveyance losses, crop type, irrigation systems, public access areas, etc. A rate of 0.03 cfs/acre is permissible for irrigation of 5 acres or less.

- K. Do you own the land at the proposed rental place of use (POU)? Yes ☒ No ☐
If no, attach documentation from the POU owner/operator confirming your authorization to use the POU and label it Attachment 3K.

- L. List all other water rights and sources of water at the rental place of use for the same purpose, including privately owned water rights and water received from a municipal supplier, an irrigation district, a canal company or any other water delivery entity. Explain why additional water is required:

Industrial water right 37-8856, which requires mitigation. This rental is proposed to acquire mitigation water temporarily.

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

4. RENTAL REQUESTS FOR SPECIFIC WATER RIGHTS

A. Are you requesting to rent specific water rights?

Yes ☒ No ☐

If yes, specify below the elements of the water rights you are requesting to rent. If no, continue to Question 4B.

Important Information: Diversion rates and volumes sought for rent must be proportionate to the per acre diversion rates and per acre volume limits of the water right under lease contract to the Water Supply Bank. Prior to completing this section, applicants should review all water right lease contracts and any active rental agreements to determine which elements of a water right are available to satisfy a rental request. Lease and rental documents are searchable via [JDWR's website](#).

Water rights identified below must either already be leased to the Bank or a lease proposal should accompany this rental request. Rental requests for water rights not yet leased to the Bank will be returned if companion lease applications are not provided with the rental request. For leased rights featuring combined limits, rentals must be consistent with combined diversion rate, volume or acre limits. Combined limits should be listed on a row below water right numbers.

Water Right Elements Leased to Water Supply Bank					Leased totals, minus water right elements involved in active rental agreements, equals water right elements available for rent	Water Supply Bank Rental Request		
Water Right Number (leave blank if sub-total of combined limits)	Nature of Use	Diversion Rate (CFS)	Volume (AF)	Acres (AC)		Diversion Rate (CFS)	Volume (AF)	Acres (AC)
37-20833	Irrigation	0.48	84.4	24.1		0.02	3.5	1
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank					TOTAL	0.02	3.5	1
						CFS	AF	AC

*Attach multiple copies of this page if space above is insufficient to list all water rights requested to be rented on this application.

B. If water right conditions, combined limits, or the sum of all water right elements being requested provide an unconventional duty of water (e.g., an unusually low rate per acre or volume per acre for irrigation use), explain how your proposed rental will sufficiently accomplish your intended purposes. Attach a separate page if space is insufficient and label it Attachment 4B:

N/A

C. Does your rental request propose to change the nature of use for any water right(s) being rented?

Yes ☒ No ☐

If yes, explain how the water right(s) will be converted to new uses. Include the historic, consumptive use amounts for the water right being rented if you have it, as well as the new consumptive use amount for your proposed beneficial use. If space below is insufficient, attach a separate page and label it Attachment 4C:

The rental will convert an irrigation right to industrial use. A historical consumptive use of 2.5 AFA per acre is assumed for the conversion, providing the required mitigation obligation through rental of 1.0 acre.

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

- A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes ☒ No ☐
If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs:

- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental? Yes ☐ No ☒
If yes, describe:

- C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes ☐ No ☒
If yes, describe the date and location of the NOV.

- D. Additional Information

DECLARATION

I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval. I understand that if this rental application is approved, it will be subject to the provisions of Section 42-1766, Idaho Code and all applicable state and federal laws. I understand that the submission of a rental application provides no guarantee for approval of a rental agreement. I also understand that, per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right and that I am not authorized to utilize water as proposed in this application prior to the execution of an approved rental agreement.

Signature of Applicant

Printed Name of Applicant

Date

Signature of Representative

Printed Name of Representative

Date

Mail to:

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

RECEIVED

MAR 27 2017

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANK

RECEIVED

MAR 22 2017

Department of Water Resources
Eastern RegionApplicant Name: Walters Ready Mix

Is this application being submitted with a lease application as a lease/rental package?

Yes ☐ No ☒

If yes, specify companion water rights in Section 4

This application must be completed according to the minimum requirement checklist below. This checklist is part of the rental application and must be included with the rental application. Applications that do not meet the minimum requirements will not be placed in the processing queue and may be returned until all minimum requirements have been met.

Rental applications should be submitted well in advance of the desired start date for the use of rental water. Rental applications may be processed as early as November 1 of the year prior to the intended use of rental water. Any rental application received on or before November 1 for use in the next year will be assigned a received date of November 1. Rental applications submitted more than one year in advance of the proposed start date for the use of rental water will not be accepted and will be returned to applicants. Rental applications may be returned to applicants if the desired start date for the use of rental water cannot be accommodated by the Water Supply Bank. Rental requests will not be accepted once the rental season of use period has concluded.

One rental application per beneficial use of water. For multiple beneficial uses of water, separate rental requests should be submitted for each unique beneficial use of water. One rental application can be submitted if you propose to rent water from multiple sources.

For additional instructions on completing a rental application, visit the Bank's website at http://idwr.idaho.gov/water_supply_bank.

MINIMUM REQUIREMENT CHECKLIST

Check All Items as Either Attached (Yes) or Not Applicable (N/A)

Yes

- ☒ Completed *Application to Rent Water from the Board's Water Supply Bank*
- ☒ Confirmation that this form has been printed single sided, per requirement of the Water Supply Bank

Attachment N/A Yes

- 2 ☒ A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request
- 3A ☒ ☐ Detailed information on a proposed use of rental water
- 3F ☒ ☐ Authorization from the owner/operator of the rental point(s) of diversion
- 3H ☒ ☐ Water modeling to account for the impacts of the rental request
- 3J ☒ ☐ Documents justifying a rate of flow greater than 0.02 cfs/acre
- 3K ☒ ☐ Authorization from the owner/operator of the property at the proposed rental place(s) of use
- 4B ☒ ☐ Explanation of how the rental water will sufficiently accomplish your rental purposes
- 4C ☒ ☐ Explanation of consumptive use amounts for water rights experiencing a change in nature of use

Department Use Only – Proposed Water Right(s)

37-20833

819

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Walters Ready Mix

Mailing Address Po Box 390 Rexburg ID 83440
Street City State Zip Code
 Email Address _____ Phone Number 208-356-5491

B. Is this application being completed by an authorized representative on behalf of the applicant? Yes ☒ No ☐
 If yes, representatives (includes company employees if the applicant is a corporation, as well as legal counsel or consultants) should provide their information below if they desire to be included on correspondence with the rental applicant.

Representative Kristin Moore Professional Title Senior Water Right Analyst
 Organization Rocky Mountain Environmental Assoc. Relationship to Applicant consultant
 Mailing Address 482 Constitution Way Ste 303, Idaho Falls, ID 83402
 Email Address kristin.mea@gmail.com Phone Number 208-524-2353

2. MAP

Create a map of the proposed point(s) of diversion, place(s) of use and water diversion, delivery and distribution systems. Make sure the rental place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to irrigate. Attach the map to this application and label it Attachment 2.

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

A. Describe why you desire to rent water and provide a detailed description of your proposed use. If the proposed use is not for irrigation, describe in detail how you determined the amount of rental water required. If the space below is insufficient, attach additional sheets as required and label them Attachment 3A:

For mitigation of industrial use at an asphalt and concrete plant. The quantity proposed to be rented was determined through consumptive use evaluations.

B. Enter the desired and/or minimum rates of flow, volume, or irrigable acres requested for your rental purposes:

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Desired Acres (if applicable)
CFS	47.5 AF	CFS	47.5 AF	AC

* Sometimes water rights provide an exceptionally low rate per acre and/or low volume per acre. This section is meant to establish an acceptable range of water sufficient for your proposed water use. Please see question 4B and complete if necessary.

C. This section must be completed in full. Enter the proposed start date and latest possible start date for using rental water as well as the number of years you would like to rent water. The latest possible start is the latest possible date by which you would be willing to pay for a rental and be able to benefit from utilizing rental water.

Desired Start Date (month/day/year)	Latest Possible Start Date (month/day/year)	*Mark Desired Rental Duration (Calendar Years)					**Applicant's preference if rental application cannot be processed prior to the latest possible start?	
4/15/2017	7/15/2017	☒ 1	☐ 2	☐ 3	☐ 4	☐ 5	☒ Process application as soon as possible	☐ Return application to applicant

* The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.

** Per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right. Water Supply Bank rental applicants are not authorized to utilize rental water prior to the execution of an approved rental agreement. Rental requests may be returned to applicants if no water is available from the Bank to fulfill a rental request.

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

- D. Describe your water distribution system and how rental water will be delivered from the point(s) of diversion (POD) to the proposed place of use (POU):

Well diverts water into pipelines that deliver to washing and mixing locations.

- E. Describe the physical type (pump, headgate, etc.) and location of the POD from which rental water is proposed to be diverted:

POD Description	Water Source	Other Water Rights Diverted from this POD
1N 18E S13 SESW	Ground water	37-8856

If the POD(s) above are located where water is turned into a canal, lateral or ditch, or if they are located on your property but are serviced by water that is delivered via a canal, lateral or ditch, your rental request must include documented authorization from all relevant canal companies, irrigation districts and/or water delivery entities, confirming that they consent to your diversion of water from their system.

- F. Has documented consent from all relevant water delivery entities been obtained? Yes ☐ N/A ☒
If yes, include documented consent as Attachment 3F.

- G. Do any POD(s) identified in Question 3E divert from a water source that may require water modeling? Yes ☐ No ☒
Refer to the Water Modeling Requirements Information Sheet to determine if a rental POD may require water modeling.

- H. Has water modeling been provided with your rental request? Yes ☐ N/A ☒
If yes, label modeling Attachment 3 H.
Rental applications that require modeling will be returned if modeling is not provided.

- I. Specify the desired beneficial use of water and the requested season of use or number of acres required:

- ☐ Irrigation _____ (number of acres) Duration: Subject to IDWR standard seasons of use
☐ Commercial from: _____ (mm/dd) to: _____ (mm/dd)
☐ Stockwater from: _____ (mm/dd) to: _____ (mm/dd)
☐ Industrial from: _____ (mm/dd) to: _____ (mm/dd)
☒ Other: Mitigation from: 4/15 (mm/dd) to: 10/31 (mm/dd)

- J. For irrigation uses, do you propose to divert water at a rate greater than 0.02 cfs/acre? N/A ☒ Yes ☐ No ☐
If yes, justify the rate of flow and attach any supporting documents as Attachment 3J. Justification may include information on soil composition, conveyance losses, crop type, irrigation systems, public access areas, etc. A rate of 0.03 cfs/acre is permissible for irrigation of 5 acres or less.

- K. Do you own the land at the proposed rental place of use (POU)? Yes ☒ No ☐
If no, attach documentation from the POU owner/operator confirming your authorization to use the POU and label it Attachment 3K.

- L. List all other water rights and sources of water at the rental place of use for the same purpose, including privately owned water rights and water received from a municipal supplier, an irrigation district, a canal company or any other water delivery entity. Explain why additional water is required:

Industrial water right 37-8856, which requires mitigation. This rental is proposed to acquire mitigation water temporarily.

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

4. RENTAL REQUESTS FOR SPECIFIC WATER RIGHTS

A. Are you requesting to rent specific water rights?

Yes ☒ No ☐

If yes, specify below the elements of the water rights you are requesting to rent. If no, continue to Question 4B.

Important Information: Diversion rates and volumes sought for rent must be proportionate to the per acre diversion rates and per acre volume limits of the water right under lease contract to the Water Supply Bank. Prior to completing this section, applicants should review all water right lease contracts and any active rental agreements to determine which elements of a water right are available to satisfy a rental request. Lease and rental documents are searchable via [IDWR's website](#).

Water rights identified below must either already be leased to the Bank or a lease proposal should accompany this rental request. Rental requests for water rights not yet leased to the Bank will be returned if companion lease applications are not provided with the rental request. For leased rights featuring combined limits, rentals must be consistent with combined diversion rate, volume or acre limits. Combined limits should be listed on a row below water right numbers.

Water Right Elements Leased to Water Supply Bank					Leased totals, minus water right elements involved in active rental agreements, equals water right elements available for rent	Water Supply Bank Rental Request		
Water Right Number (leave blank if sub-total of combined limits)	Nature of Use	Diversion Rate (CFS)	Volume (AF)	Acres (AC)		Diversion Rate (CFS)	Volume (AF)	Acres (AC)
37-20833	Irrigation	0.48	84.4	24.1		0.38	66.5	19
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank					TOTAL	0.38	66.5	19
						CFS	AF	AC

*Attach multiple copies of this page if space above is insufficient to list all water rights requested to be rented on this application.

B. If water right conditions, combined limits, or the sum of all water right elements being requested provide an unconventional duty of water (e.g., an unusually low rate per acre or volume per acre for irrigation use), explain how your proposed rental will sufficiently accomplish your intended purposes. Attach a separate page if space is insufficient and label it Attachment 4B:

N/A

C. Does your rental request propose to change the nature of use for any water right(s) being rented?

Yes ☒ No ☐

If yes, explain how the water right(s) will be converted to new uses. Include the historic, consumptive use amounts for the water right being rented if you have it, as well as the new consumptive use amount for your proposed beneficial use. If space below is insufficient, attach a separate page and label it Attachment 4C:

The rental will convert an irrigation right to industrial use. A historical consumptive use of 2.5 AFA per acre is assumed for the conversion, providing 47.5 AFA through rental of 19 acres.

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

- A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes ☒ No ☐
If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs:

- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental? Yes ☐ No ☒
If yes, describe:

- C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes ☐ No ☒
If yes, describe the date and location of the NOV.

- D. Additional Information

DECLARATION

I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval. I understand that if this rental application is approved, it will be subject to the provisions of Section 42-1766, Idaho Code and all applicable state and federal laws. I understand that the submission of a rental application provides no guarantee for approval of a rental agreement. I also understand that, per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right and that I am not authorized to utilize water as proposed in this application prior to the execution of an approved rental agreement.


Signature of Applicant

James Walters-Manager 3-21-17
Printed Name of Applicant Date

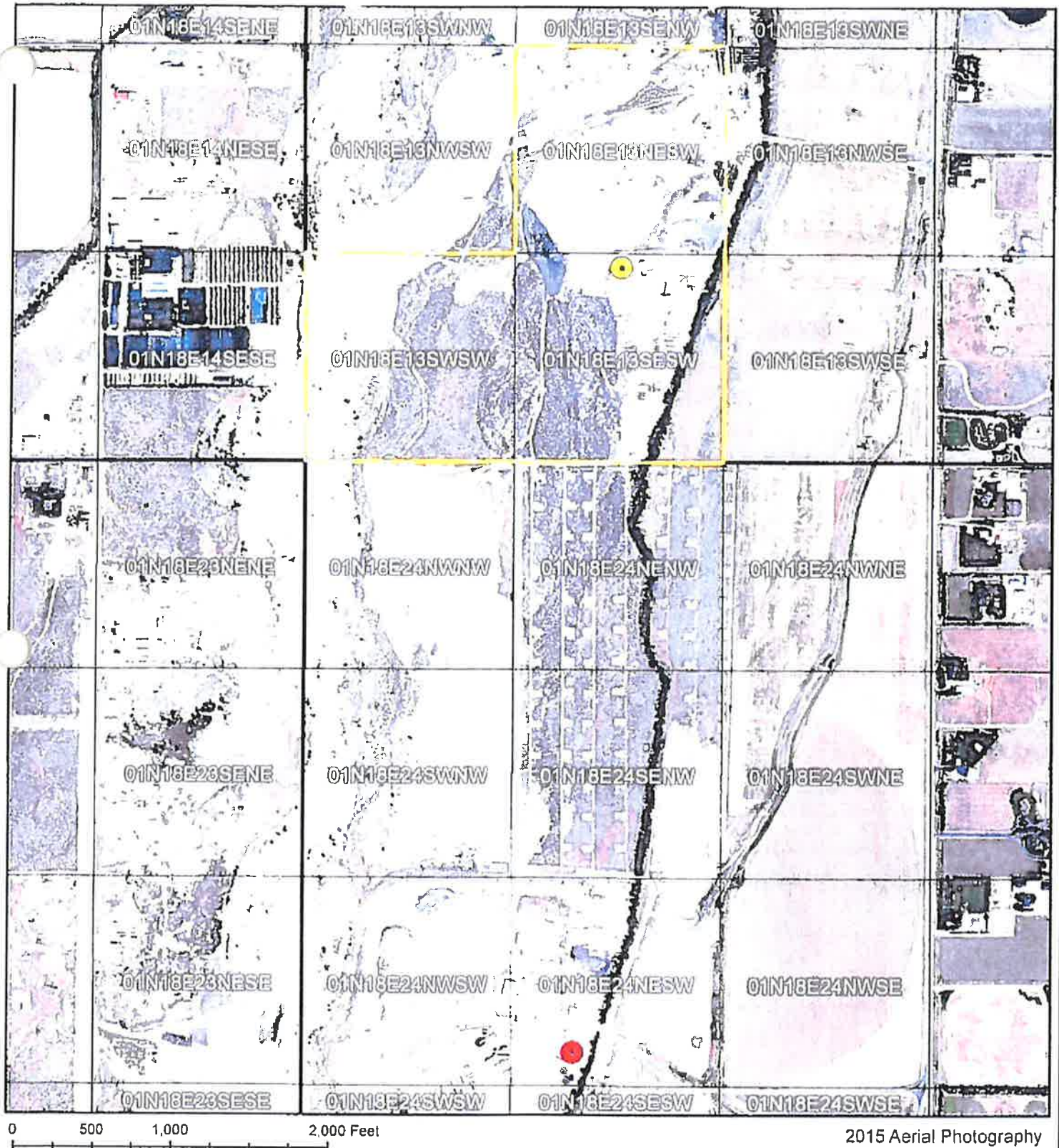
Signature of Representative

Printed Name of Representative

Date

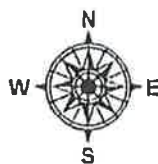
Mail to:

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



Legend

-  Proposed POD
-  WR POD 37-20833
-  Permit POU 37-8856
-  Twp & Rng
-  Section
-  QQ



Application to Rent Water

Walters Ready Mix

RMEA #16-0171

by. KM

March 22, 2017





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720 0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 12, 2017

WALTERS READY MIX
PO BOX 390
REXBURG ID 83440

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 37-20833**

Dear Renter:

Please find enclosed a receipt in the amount of \$59.50 and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 2.5 acre-feet of water for mitigation by non-use during 2017. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Pursuant to the Water Supply Bank Rules, 90% or \$53.55 of the rental fee will be paid to the lessor(s) and 10% or \$5.95 will be retained by the Department to offset administrative costs.

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,

& Water Supply Bank

Enclosures: Receipt No. C103694
Rental Agreement (copy)

c: Sascha Marston – Fiscal
Corey Skinner – IDWR Southern Regional Office
Kevin Lakey – State Water District No. 37
Kristin Moore – Rocky Mountain Environmental



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 2, 2017

WALTERS READY MIX
PO BOX 390
REXBURG ID 83440

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 37-20833**

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. I have enclosed a **Water Supply Bank Rental Agreement** for your review and signature. Upon signature and return of the original agreement, together with the rental fee described below, the Department will also sign the original agreement and return an executed copy to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

A rental fee of \$59.50 was calculated based on the current rental rate of \$17.00 per acre-foot times a diversion volume of 3.5 acre-feet.

Please send a check for \$59.50 made payable to the Idaho Department of Water Resources, together with the signed rental agreement, within 14 days so I can complete processing. Pursuant to the Water Supply Bank Rules, 90% or \$53.55 of the rental fee will be paid to the lessor(s) and 10% or \$5.95 will be retained by the Department to offset administrative costs.

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,

for Water Supply Bank

Enclosure

c: IDWR Front Desk
Kristin Moore – Rocky Mountain Environmental

MEMORANDUM

To: Right(s) 37-20833
From: Michele Edl
Date: May 30, 2017
Re: Review & Analysis of Walter's Ready Mix Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: On March 22, 2017, Kristin Moore (senior water rights analyst, Rocky Mountain Environmental) submitted a water supply bank rental application on behalf of Walters Ready-Mix. The application proposes to rent a portion of Water Right 37-20833 for the 2017 season. The water will be rented but not used; an instance of mitigation by non-use. Mitigation is required by a condition of Permit #37-8856, which otherwise authorizes a cascading industrial water use and reuse; in an asphalt plant and then a cement plant.

The original rental proposal requested quantities of water which were essence 19 years-worth of mitigation. The Water Supply Bank coordinator was not in favor of using WSB processes to bring applicants into compliance after the fact. As the result of a phone conference between Roger Warner, Rocky Mountain Environmental, and Shelley Keen and Remington Buyer both of IDWR, the consulting firm agreed to amend the application. On May 22, 2017, IDWR received the amended application. Kristin Moore had drafted it based on instructions from Roger Warner. The amended rental requested only one years-worth or 3.5 ac-ft of water from 37-20833 and added industrial use to existing mitigation use for the rental water.

AUTHORITY TO FILE: According to available Blaine County taxlot information, the proposed place-of-use for the rental is the authorized but generic place-of-use for Permit #37-8856. That property is not entirely owned by the applicant. Change of ownership documents have been provided to IDWR. It is anticipated that they will be processed in conjunction with the licensing the permit (expected July 2017).

The proposed POD is a well located within the permit POU property. It is one of the two authorized PODs for permit #37-8856.

Walters Ready-Mix, Inc. is listed with IDSOS as #C 61583. Mr. James Walters signed the application but he is not listed as representative for the corporation. On May 9, 2017, I requested confirmation of authority to file from the consultant. Kristin Moore stated that James Walters is the manager and signs all necessary paperwork for the Walters Ready-Mix, Inc.

WATER RIGHT VALIDITY: The lease of Right 37-20833 is valid for 2016-2020. A sufficient quantity of the right is available to satisfy the rental request.

INJURY TO OTHER WATER RIGHTS: No injury is anticipated. The right rented for the industrial-mitigation use and the permit which needs the mitigation are have adjacent POUs. The rental well and the lease well are located less than 1 mile and almost due north-south from each other. Both well are in the Triangle West zone.

ENLARGEMENT OF USE: The leased water and the rental water use do not have the same NOU but no enlargement is anticipated. Water Right 37-20833 is for irrigation use and was leased into the bank at the standard rate per acre and volume per acre for the area. Elements of the rental have been made proportional to the lease.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The rental appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The rental use is subject to Water District 37. The watermaster and Southern Region are not opposed to the rental.

This rental is a good-faith effort on behalf of the current holders of Permit #37-8856. They now recognize that condition 11 of the permit required that their use be mitigated. Until recently, the permit holder had overlooked or had not understood that condition.

Expected rates and volumes of water use were provided in the June 20, 1996 mitigation plan which was submitted with Application for Permit 37-8856. The plan states that two companion industrial plants require a disproportionately high rate compared to the total volume of water used because the water is cascaded from one plant to the other and reused. The first use occurs in an asphalt hot mix plant through a process which generates additional water. Then the spent water is cascaded to the concrete production plant. A note on the mitigation plan states that 100 gpm (~0.22 cfs) of the 400 gpm reused in concrete production is for use in a crushed rock washing plant and that that water use is non-consumptive.

The rental right is sufficient for the mitigation requirement. However, it is insufficient to be a substitute supply of water if the permit fails to be perfected to a license.

Edl, Michele

From: Kristin Moore <kristin.rmea@gmail.com>
Sent: Tuesday, May 30, 2017 11:29 AM
To: Edl, Michele
Subject: RE: Walters Ready-Mix

Michele,

The rental proposes to rent the amount needed for the mitigation portion of the water right 37-8856, which amounts to 2.5 afa. To get this consumptive volume, we need to rent 1.0 acre and 3.5 afa. I am unclear why we were instructed to put industrial on the rental application, because we do not need to rent water for the entire facility's water diversion. Much of their use is non-consumptive and they do not need additional water. My understanding is that the rental is strictly for the consumptive component, which is 2.5 afa, accomplished by non-use, whether that is defined by "mitigation" or "industrial."

Kristin Moore
Senior Water Rights Analyst
482 Constitution Way, Ste 303, Idaho Falls, ID 83402
E-Mail: kristin.rmea@gmail.com
VOICE: 208-524-2353 ||| FAX: 208-524-1795



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From: Edl, Michele [mailto:Michele.Edl@idwr.idaho.gov]
Sent: Tuesday, May 30, 2017 9:52 AM
To: kristin.rmea@gmail.com
Subject: Walters Ready-Mix

Kristin Moore,

Please confirm my understanding of the requirements for this rental. Walters Ready-Mix is now requesting to rent WR #37-20833 for mitigation of permit 37-8856 and industrial use for one year. The mitigation by non-use portion requested is 0.02 cfs, and 84.4 af attributable to 1.0 ac of irrigation.

The industrial use portion is not as well defined. If Walters Ready-Mix needs to rent sufficient water to replace permit 37-8856, then the rental of the remainder of right #37-20833 will not be sufficient. It will not provide enough rate. Permit 37-8856 authorized diversion of more than 1 cfs and based on the file contents, the two combined industrial processes need that rate. After subtracting out the mitigation use, rental of WR #37-20833 can only provide 0.46 cfs.

I am in a catch 22 situation. I don't know if together the asphalt and cement plants are diverting and using more than 0.46 cfs because I don't have a completed field exam. But to keep the permit in good faith, the applicant needs the WSB rental that I am trying to process.

The recent amended WSB application is silent about the rate needed for industrial use. So at your earliest convenience, please confirm required rate and volume that Waters Ready-Mix needs to rent for the industrial use.

Sincerely,
Michele Edl
208-287-4946

Water Right No.	Rented Vol (AF)	Lessor Fee (90%)	Administrative Fee (10%)	Total Fee @ \$17 (2017)	Rental Amounts		Lessor Fee (90%)	Administrative Fee (10%)	Total Fee @ \$20 (2018-2022)
Walters Ready Mix					Rate	Acres			
37-20833 mitigation-Industrial	3.50	\$53.55	\$5.95	\$59.50	0.020	1.00	\$63.00	\$7.00	\$70.00
Total	3.50	\$ 53.55	\$ 5.95	\$ 59.50	0.020	1.00	\$63.00	\$7.00	\$70.00
calculated by Michele Edl									
37-20833	rate	volume	acre	af/ac	cfs/ac	trimester vol			
decreed	0.48	84.4	24.1	3.50	0.020				
leased	0.48	84.4	24.1	3.50	0.020		HG = 3.5		
available	0.48	84.4	24.1	3.50	0.020				
requested	0.02	3.5	1						
mitigation by non-use	0.02	2.5	1	2.50	0.020		CU = 2.5		
industrial	0.0002	0.92	0.763	3.50	0.001		from mitigation plan: 1.11 cfs (300gpm+100gpm) and 0.92 af/a		
	0.0202						This rental does not supply the high short-term rate		
					0.0109005 =		0.92/84.4 = % of volume		

Edl, Michele

From: Kristin Moore <kristin.rmea@gmail.com>
Sent: Monday, May 22, 2017 2:03 PM
To: Edl, Michele
Subject: Walters Ready Mix
Attachments: WSB_Rental_App 2017v3_1yonly_p.pdf

Michele,

I have amended the Rental application (attached) for Walters Ready Mix in Bellevue. Do you need a new signature on it? Or can you substitute the pages?

Thanks,

Kristin Moore
Senior Water Rights Analyst
482 Constitution Way, Ste 303, Idaho Falls, ID 83402
E-Mail: kristin.rmea@gmail.com
VOICE: 208-524-2353 ||| FAX: 208-524-1795



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Edl, Michele

From: Skinner, Corey
Sent: Wednesday, May 10, 2017 4:01 PM
To: Edl, Michele
Cc: Kevin Lakey
Subject: RE: mitigation by non-use rental

Michelle,

I have no objections to the rental of 37-20833 for a "mitigation by non-use" use. I suppose any questions will relate to the possible licensing of 37-8856 as a result of the rental. Just out of curiosity, how much is the rental for?

Corey

From: Kevin Lakey [mailto:watermanager@cableone.net]
Sent: Wednesday, May 10, 2017 12:46 PM
To: Edl, Michele <Michele.Edl@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: RE: mitigation by non-use rental

Michele,

I'm not sure I understand what "mitigation by non-use" means. If 37-20833 is not being used and hasn't for some time, I don't see how that would be anything new that would allow this permit to continue use. I need some help understanding.

Kevin Lakey
Water District 37

From: Edl, Michele [mailto:Michele.Edl@idwr.idaho.gov]
Sent: Tuesday, May 09, 2017 4:10 PM
To: Skinner, Corey; watermanager@cableone.net
Subject: mitigation by non-use rental

Corey and Kevin,

I have completed my review of a proposal to rent water and mitigate by non-use. The right to be mitigated is Permit 37-8856.

This has been unusual and difficult for both the consultant, Rocky Mountain Environmental, and me to describe for IDWR processes.

RME has been hired by the permit holders and is expected to produce a field exam and licensing recommendations for the right in July 2017. Permit 37-8856 was issued in 1997, and required mitigation but mitigation was not accomplished during the development period. Proof was submitted in 1999.

This rental is a demonstration of good faith by the current holders of the permit. You will find a conversation memo dated March 17, 2017 in the backfile of 37-8856 which summarizes IDWRs position on the permit.

I have attached a copy of my review memo and a map of the PODs for the mitigating right and the rental. Because this rental is for non-use, the destination shapes don't have much meaning.

Please let me know if you have concerns about this rental. I have only limited knowledge about the permit.

Michele

USDA

National Resources Conservation Service

Web Soil Survey

1:250,000

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Soil Map

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Intro to Soils

Suitabilities and Limitations for Use

Soil Properties and Qualities

Ecological Site Assessment

Soil Reports

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AOI Inventory

Building Site Development

Construction Materials

Disaster Recovery Planning

Land Classifications

Management

Recreational Development

Sanitary Facilities

Soil Chemical Properties

Soil Erosion

Soil Health

Soil Physical Properties

Engineering Properties

View Description

View Soil Report

Options

Include minor soils?

View Description

View Soil Report

Particle Size and Coarse Fragments

Physical Soil Properties

Soil Map

Scale

not to scale

Seepage Loss Calculations

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the total annual seepage losses from a pond.

FILE NUMBER	rental # 164
REVIEWER	Michele Edl
DATE	5/9/2017

User Input
Calculated value
Formula Explanations

INPUTS

Pond Surface Area (AC.)	1	AC
-------------------------	---	----

Pond Surface Area (SQ. FT.)	43560	SQ. FT.
-----------------------------	-------	---------

I used the following method to obtain my Soil Classification Information:	NRCS Web Soil Survey	
My Soil Classification Is	GW	
Suggested Seepage Rate (FT./DAY)	0.2000	FT./DAY

Formula: (Surface Area X Seepage Rate) X 7.48 = Gallons Per Day Loss
--

Convert to GPD	65166	GPD
----------------	-------	-----

Total Seepage Loss (AFA)	73.0	AFA
--------------------------	------	-----

Though sand and gravel seepage rates may actually be higher, the maximum allowable rate is 0.2 ft/day, pursuant to Administrative Memo "Seepage Loss Standards for Ponds and Reservoirs."

Suggested Seepage Rates for Different Soil Types:
GW, GP, GM, GC, SW, SP and SM (silty sand, sand silt mixtures and gravel mixtures) = 0.2 ft per day
OL and ML (inorganic silts - very fine sands, silty, or clayey fine sands) = 0.02 ft per day
SC (clayey sands, sand clay mixtures) = 0.007 ft per day
CL (Low to medium plasticity clays) = 0.003 ft per day
MH, OH, PT and CH (high plasticity clays) = 0.0003 ft per day
LINED PONDS (liners can be chemical, fabric, or bentonite) = 0 ft per day
Ponds Intercepting Groundwater (excavated ponds filled by ground water) = 0 ft per day

PLEASE NOTE: The Initial basis for the Suggested Seepage Rates in the table above is found on Page 16 of Seepage from Fish Ponds, Bulletin 599, August 1989 Alabama Agricultural Experiment Station, Auburn University, Auburn University Alabama. If you don't know the soil type, please refer to the map provided at the NRCS Web Soil Survey (Tab #1), an ArcMap Soil Classification Map (Tab #1.1), or published NRCS Soil Survey (Tab #1.2). Use "0" if the pond fill relies on the water table.

No. C 61583	Due no later than Jul 31, 2016 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. WALTERS READY-MIX, INC. DAVID Z. WALTERS P O BOX 390 REXBURG ID 83440-0390		DAVID Z WALTERS 342 WEST FOURTH NORTH REXBURG ID 83440			
			3. New Registered Agent Signature:*			
4. Corporations: Enter Names and Business Addresses of President, Secretary, and Directors. Treasurer (optional).						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
SECRETARY	CHARLENE WALTERS	P.O. BOX 390	REXBURG	ID	USA	83440
PRESIDENT	DAVID Z WALTERS	P.O. BOX 390	REXBURG	ID	USA	83440
5. Organized Under the Laws of: ID C 61583		6. Annual Report must be signed.* Signature: Shauna Hurd Name (type or print): Shauna Hurd Date: 05/27/2016 Title: Office Manager				
Processed 05/27/2016		* Electronically provided signatures are accepted as original signatures.				

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
AUG 09 2017
Department of Water Resources
Eastern Region

A Beneficial Use Field Report is prepared by a water right examiner as the result of an examination to clearly confirm and establish the extent of the beneficial use of water established in connection with a permit during the development period authorized by the permit and any extensions of time previously approved.

A. GENERAL INFORMATIONPermit No. 37-88561. Owner Heath Marshall Inc.

Phone No. _____

Current address _____

2. Examiner's name Keith C Wilson & Paul H Scoresby EXAM DATE 12/20/20163. Accompanied by Douglas B Walters & Larry Anderson Email _____Address 10820 Hwy 75, P.O. Box 66, Bellevue, ID 83313 (Walters/Anderson)Relationship to permit holder Walters Ready Mix / Anderson Asphalt Phone No. (208)309-0483/ 720-39244. Source Ground water tributary to N/A**B. OVERLAP REVIEW**1. Other water rights with the same place of use N/A2. Other water rights with the same source and point of diversion N/A**C. DIVERSION AND DELIVERY SYSTEM**

1. Point(s) of Diversion:

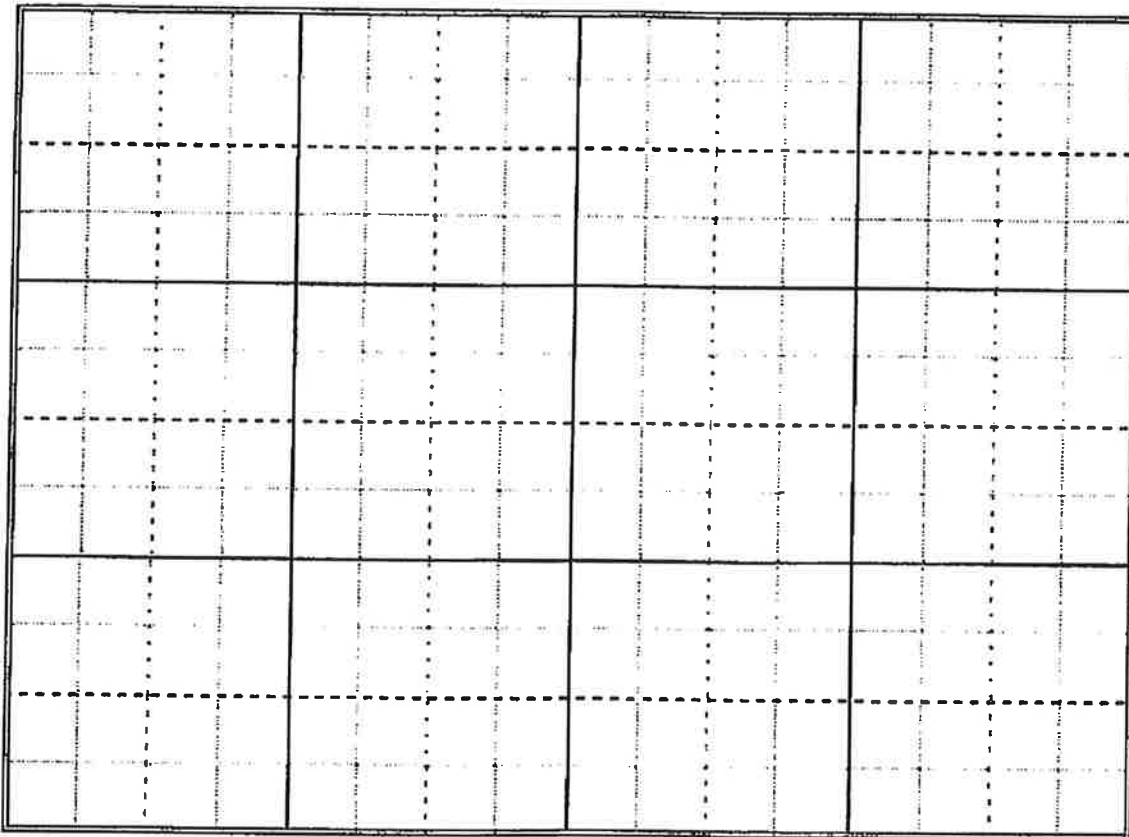
Ident. No.	Gov't Lot	¼	¼	¼	Sec	Twp	Rge	County	Method of Determination/Remarks
40 Hp			SE	SW	13	01N	18E	BLAINE	On site & Google Earth Aerial Photos
Dom.			SE	SW	13	01N	18E	BLAINE	Referred to as "Domestic Well"

2. Place(s) of Use: Method of determination On site & Google Earth Aerial Photos

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	13									I			I					

EXHIBIT6

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe diameter (inside), as applicable. Use the space provided or ☐ see attached.



Scale: 1" = _____

- ☒ Copy of USGS Quadrangle attached showing location(s) of point(s) of diversion and place(s) of use (required)
☐ Aerial photo attached (required for irrigation of 10+ acres)
☒ Photo of diversion and system attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
40 Hp	Hitachi	40	G27066E	Hitachi	
"Domestic Well"	Franklin	7.5		Franklin	

*Code to correspond with no. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
McCrometer Propeller (40 Hp)	Totalizing	McCrome	M0308	12-05716	6.25 id	Unknown
Acutal Volumetric ("Domestic Well")	N/A	N/A	N/A	N/A	N/A	N/A

2. Measurements: _____

E. NARRATIVE/REMARKS/COMMENTS

There are two industrial businesses served under this permit; a Concrete Batch Plant and an Asphalt Plant. Douglas Walters is the plant manager for the Concrete Batch Plant and Larry Anderson is the owner/plant manager of the Asphalt Plant.

The place of use for the Concrete Batch Plant is in the SESW and the place of use for the Asphalt Plant is in the NESW, both in Section 13, T01N, R18E. The Concrete Batch Plant system has two interconnected wells. Both wells are located in the SESW Sec 13, T01N, R18E. One well is designated as the "Domestic Well" and the second is designated as the 40 Hp well. The 40 Hp well is shared between both plants. The McCrometer flowmeter measures all the water produced by this well. For the concrete plant, this well supplies water to a boiler where it can be heated before being dumped into the mixing drum. This is mostly done in winter. The domestic well is specific to the concrete batch plant. It delivers water to a holding tank inside the plant, which can also be heated, and is measured before dumping into the mixing drum. The water from both wells are blended sometimes in the mixing drum, but not before summing the water used in each batch. There is no meter on the domestic well. It is measured as it enters the holding tank inside the plant, but only per batch. After each batch, the volumetric water measurement is reset. Summing the water used in each batch enables a volumetric measurement of the domestic well.

There is no washing of rocks and gravel at the batch plant. The pre-washed rocks & gravel are purchased from another company. The consumptive component is the water used in the concrete and is estimated at 27-30 gallons per yard. According to Douglas Walters, their maximum annual production of concrete has been 27,154 yards. [For Volume Calculations, see Item G.2] Each truck has a 250 gallon "Temper Tank" to ensure that the concrete is delivered at the proper temperature. Water in the "Temper Tank," and water used for washing trucks is discharged into an on-site gravel pit to recharge and is considered non-consumptive.

The Asphalt Plant is connected only to the 40 Hp well (located in the SESW Sec 13, T01N R18E), and uses approximately 105 gal/min (0.23 cfs) when operating. Depending on the demand, (at most) the plant operates 6-8 hours per day for 6 days per week. Water to the asphalt plant is used only in the "Scrubber" to remove dirt/dust in the process of making asphalt. The water is then discharged into an on-site gravel pit, where it seeps back into the ground. It is considered non-consumptive.

Has the permit holder met all conditions of permit approval, including any mitigation requirements and/or measuring device installation requirements? ☒ Yes ☐ No If no, what must be done to meet the permit requirements?

The permit requires annual mitigation by recharge of 2.5 af from Water Right Nos. 37-235C, 37-236A, and 37-308A (the splits of the rights originally described in the condition). This entails retiring 1.0 acre of irrigated land within the POU. Permit holder has pumps installed on the ditch to deliver the 2.5 af into the gravel pit for recharge purposes. Please see the attached letter and package from B.C. Porter & Associates describing the pumping information. B.C. Porter & Assoc. performed a pump test and measured higher diversion rate values than the pumps were rated for. Thus, the rate used for each pump originates from the manufacturer's rated values, not the pump test, to be conservative. The pumps were located in the NWNWSE Sec 13, T01N R28E. Additionally, 1.0 acre of farm ground has been retired to meet the mitigation requirements given in the Conditions of Approval. A map is included to identify the location of the 1.0 acre in the final page of the Item E attachment. The POU shapefile from IDWR does not correspond to the actual irrigated acres. However, the distribution of acres per QQ is fairly consistent.

F. FLOW CALCULATIONS☐ Additional computation sheets attached

Measured Method:

The McCrometer flowmeter was read at 1.84 cfs with valves entirely open. The plant systems have the capability of operating at the permitted diversion rate.

Concrete Batch Plant = 0.92 cfs

Asphalt Plant = 0.23 cfs

 $Q = 0.92 \text{ cfs} + 0.23 \text{ cfs} = 1.15 \text{ cfs}$

RECOMMENDED PERMITTED AMOUNT = 1.15 cfs

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

 $V_{IR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____ $V_{D,R} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____ $V = \text{Smaller of } V_{IR} \text{ and } V_{D,R} =$ _____

2. Volume Calculations for Other Uses:

INDUSTRIAL USES:

Concrete Batch Plant @ Maximum of 27,154 yards produced

@27 gal/yard Vol = (27,154 yards)(27 gal/yard) = 733,158 gal/325850 gal/af = 2.24 afa or 2.2 afa

@30 gal/yard Vol = (27,154 yards)(30 gal/yard) = 814,620 gal/325850 gal/af = 2.49 afa or 2.5 afa

Asphalt Plant @ 105 gpm (0.23 cfs) and would be considered non-consumptive

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Industrial (Concrete Batch Plant)	01/01	12/31	0.92 cfs	
Industrial (Asphalt Plant)	01/01	12/31	0.23 cfs	
Totals:			1.15 cfs	

2. Recommended Amendments

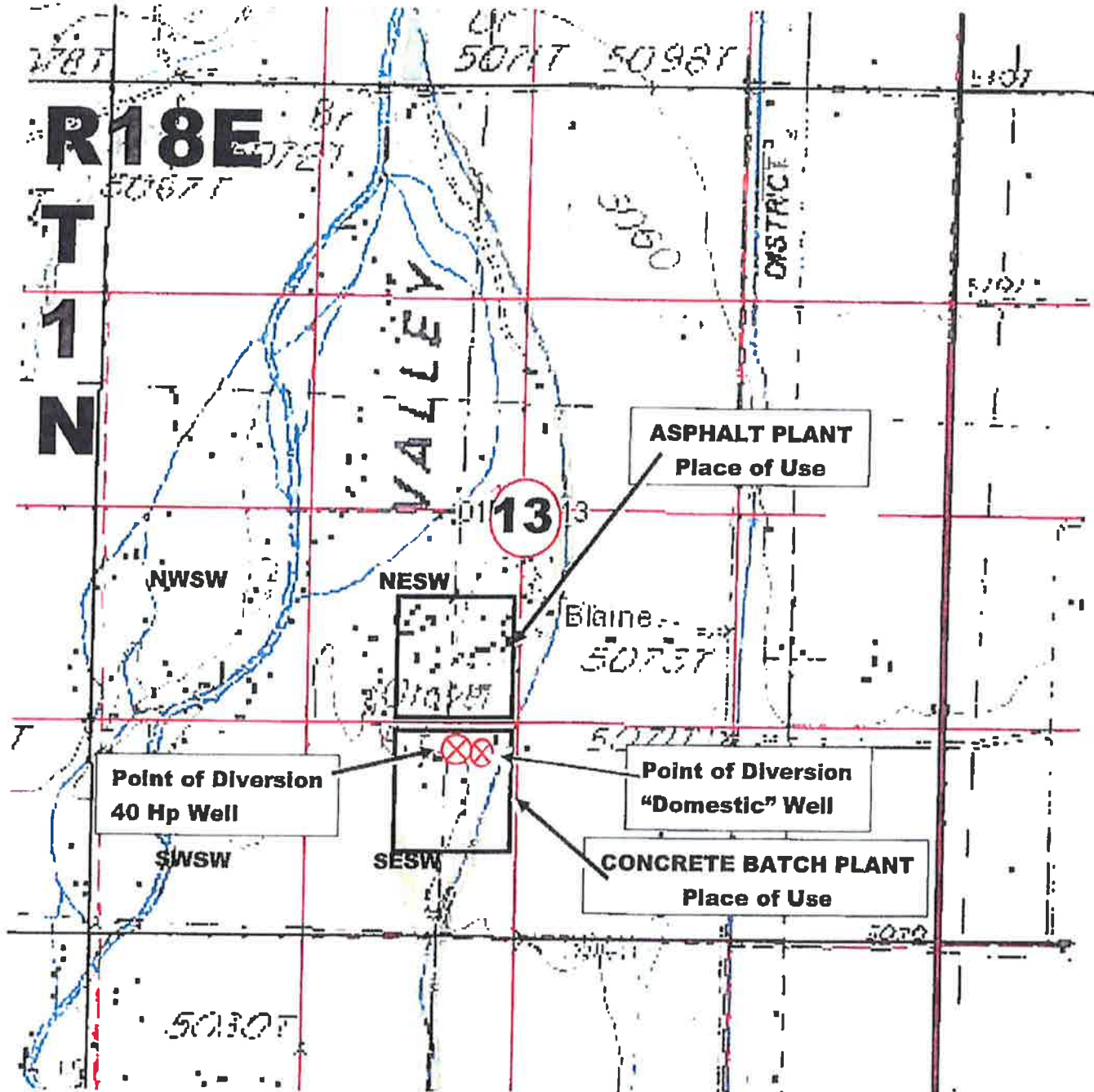
☒ Change P.D. as reflected on page 1☐ Add P.D. as reflected on page 1☐ None☒ Change P.U. as reflected on page 1☐ Add P.U. as reflected on page 1☐ Other**I. AUTHENTICATION**Field Examiner's Signature _____ Date 8-9-17

Reviewer _____ Date _____

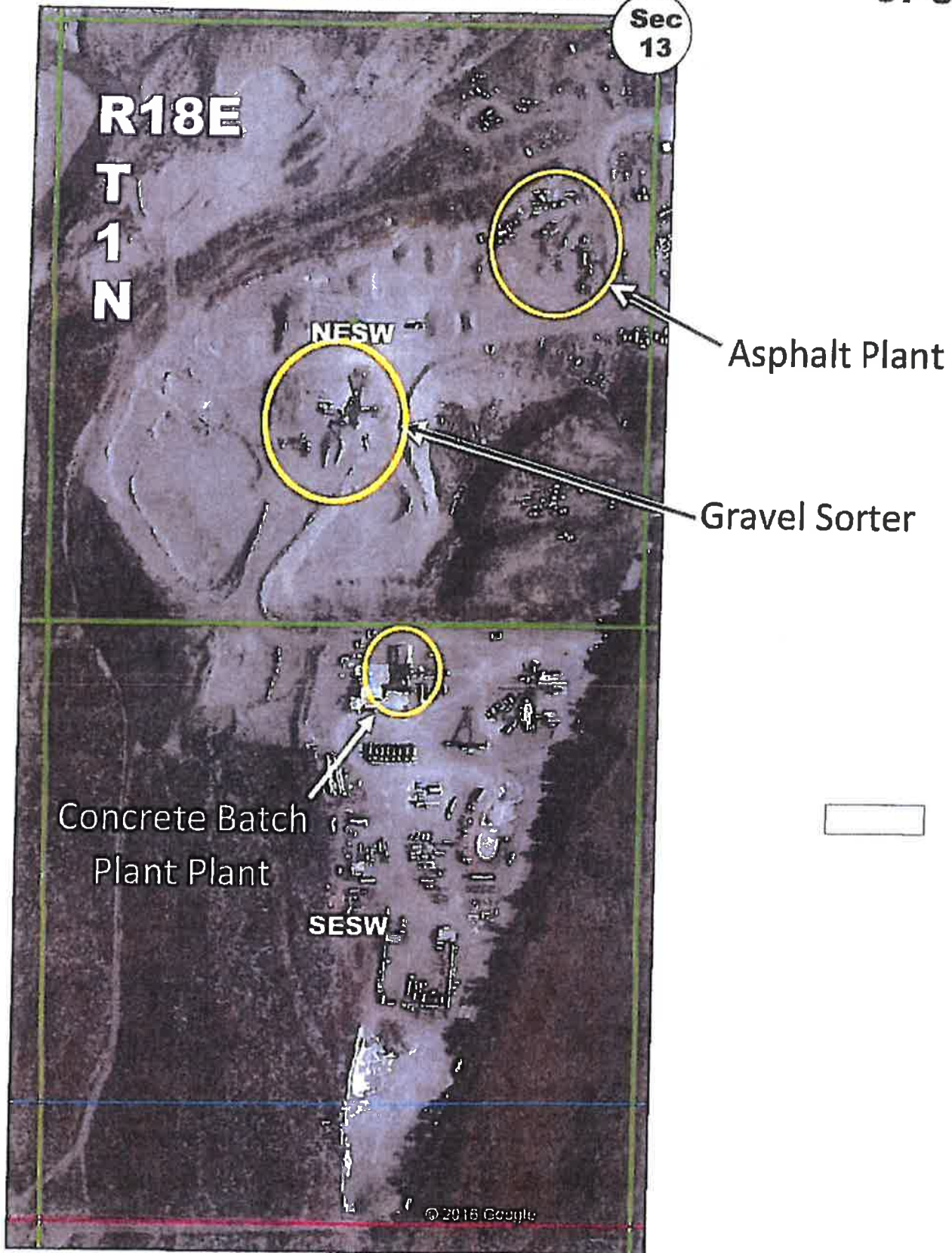


Place of Use & Points of Diversion

37-8856

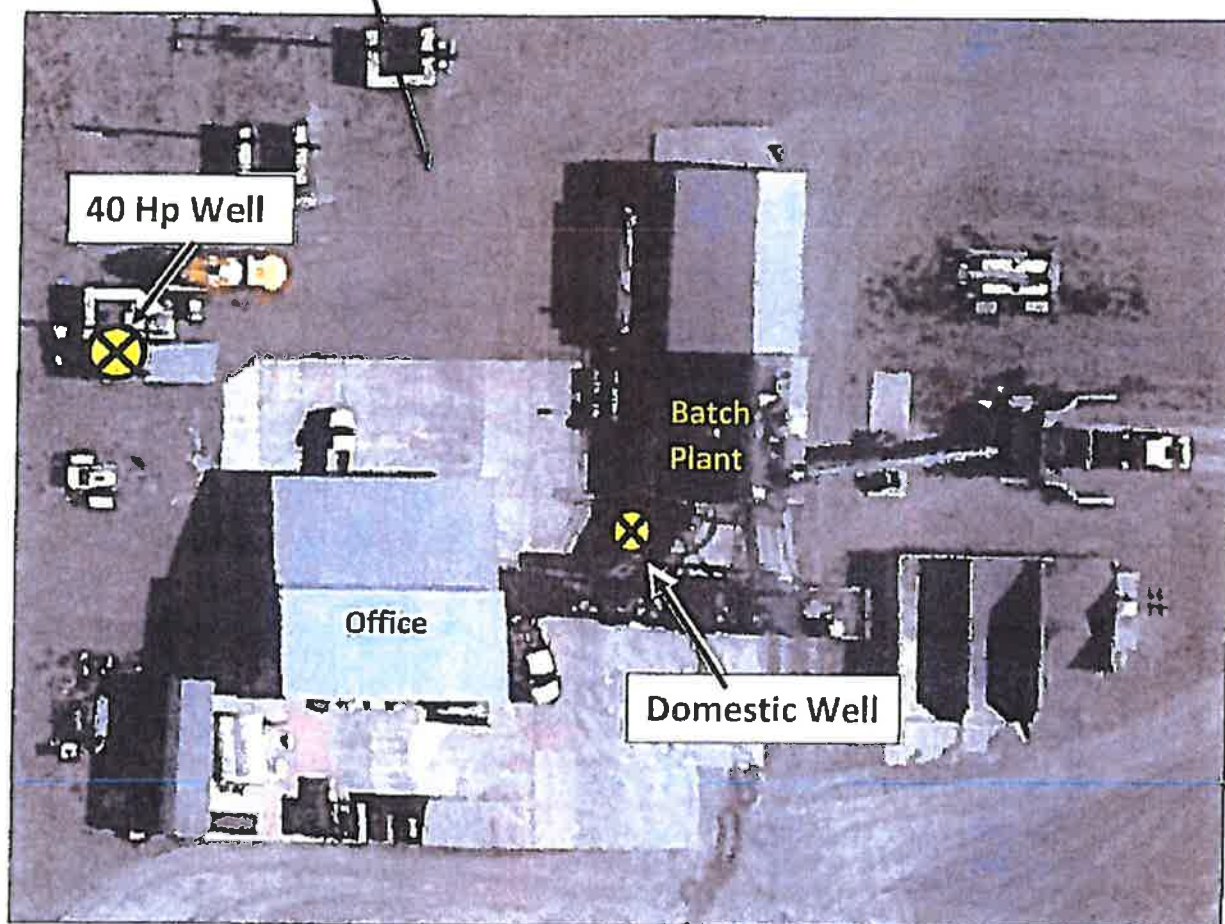
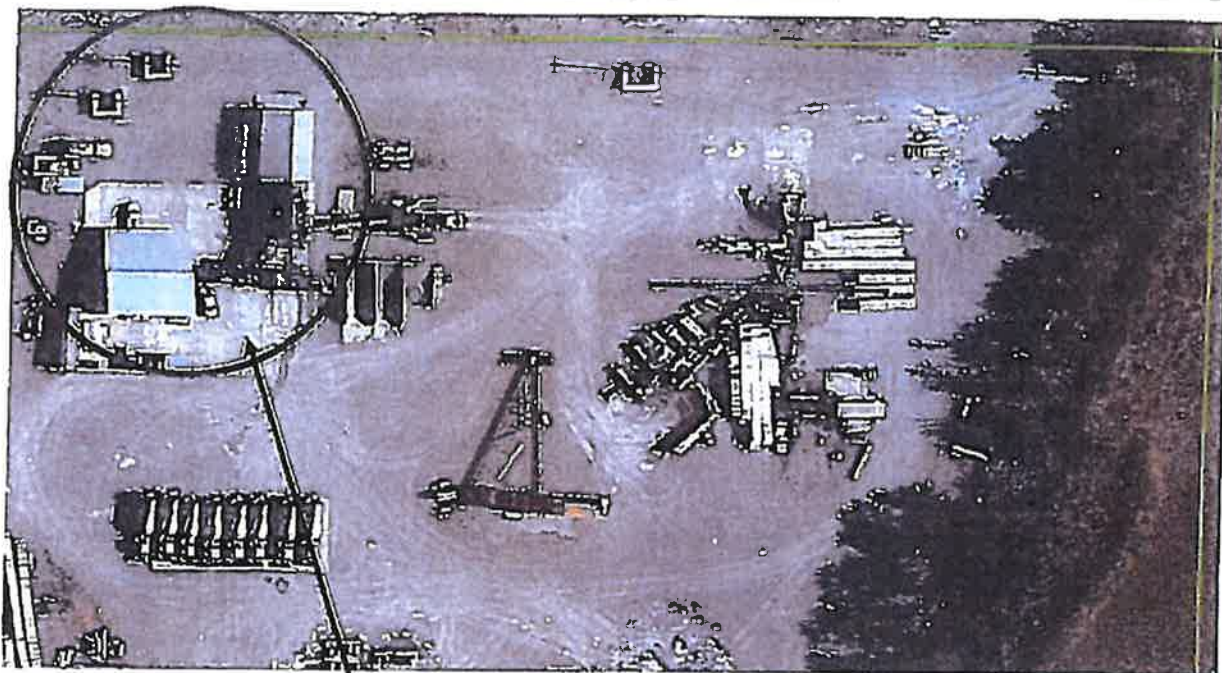


Place of Use & Points of Diversion



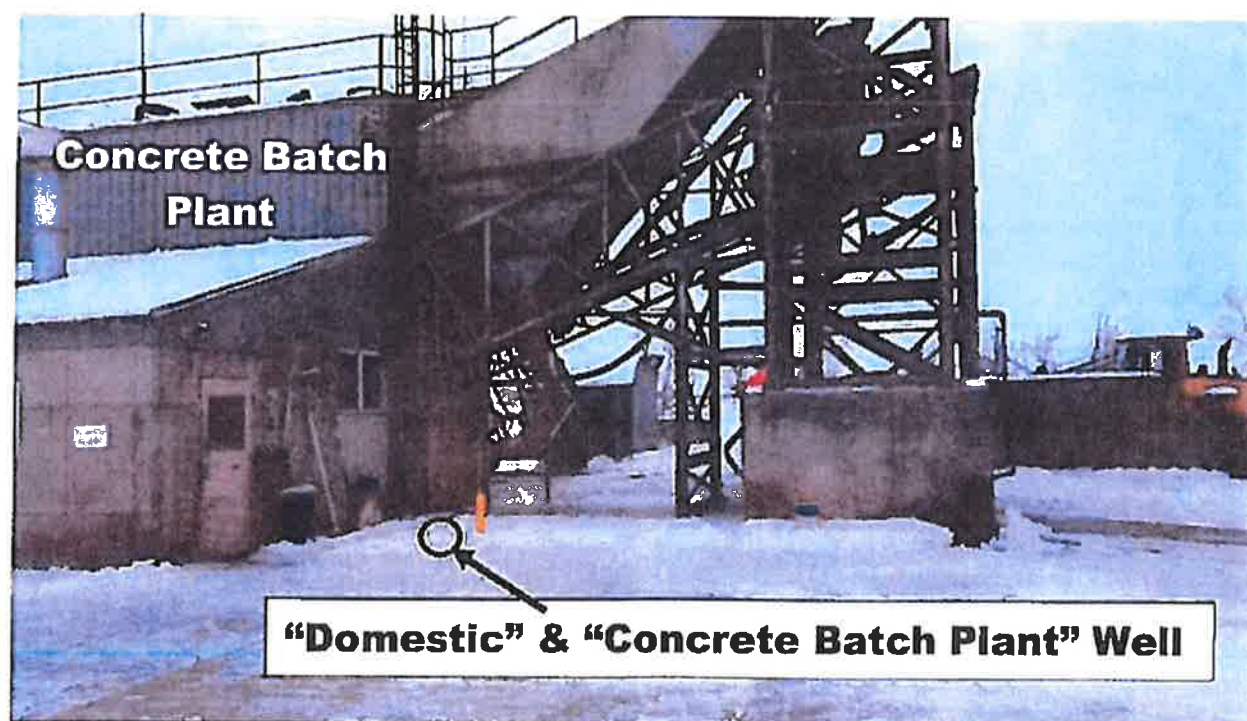
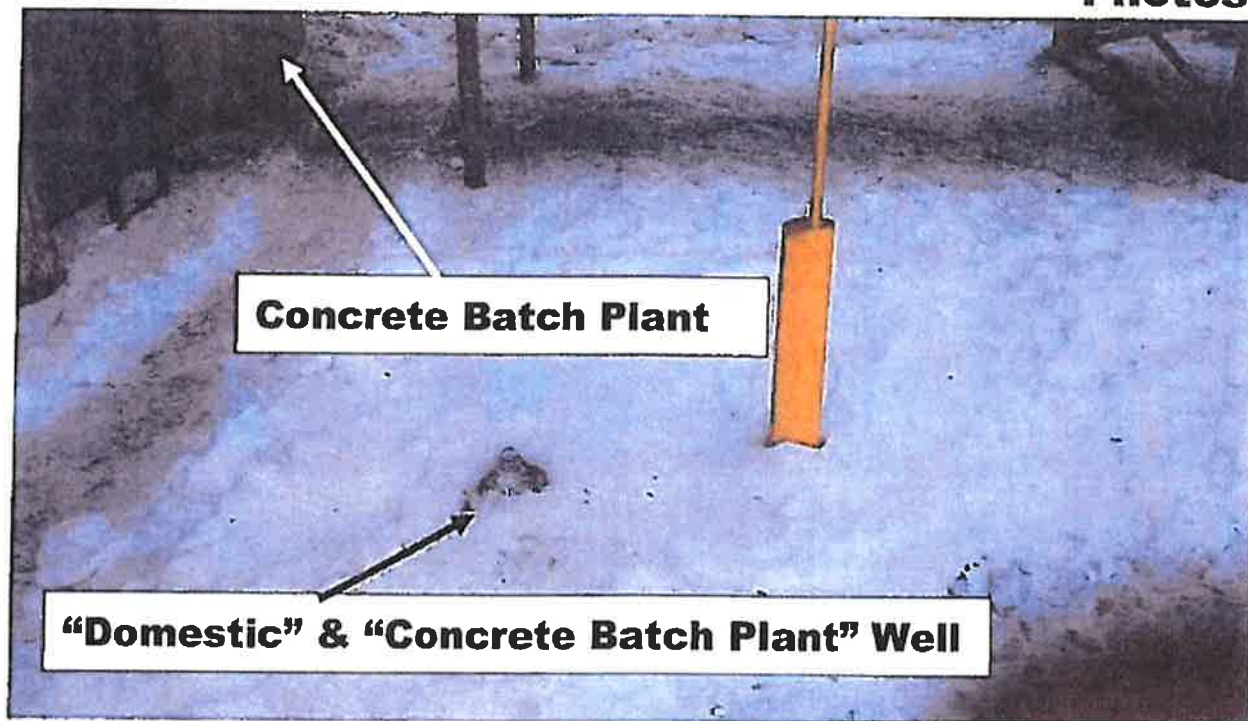
Place of Use & Points of Diversion

37-8856



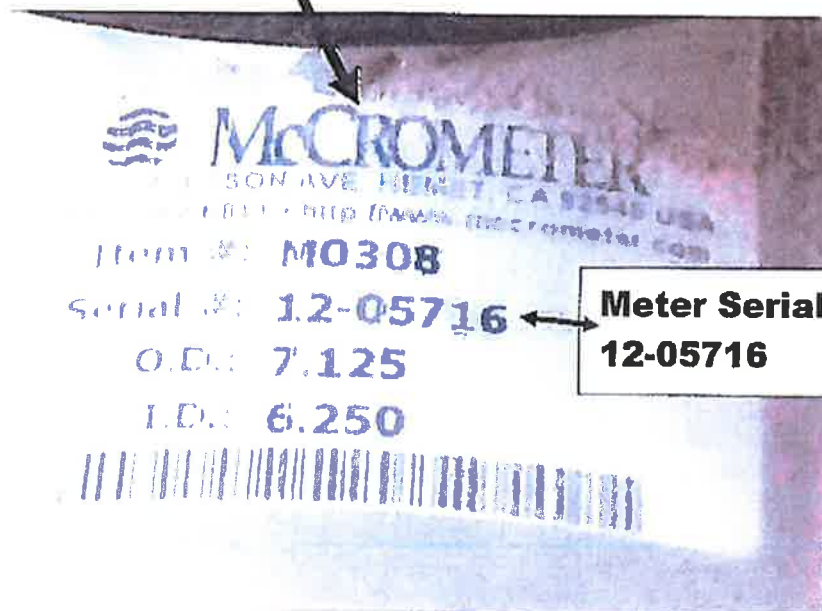
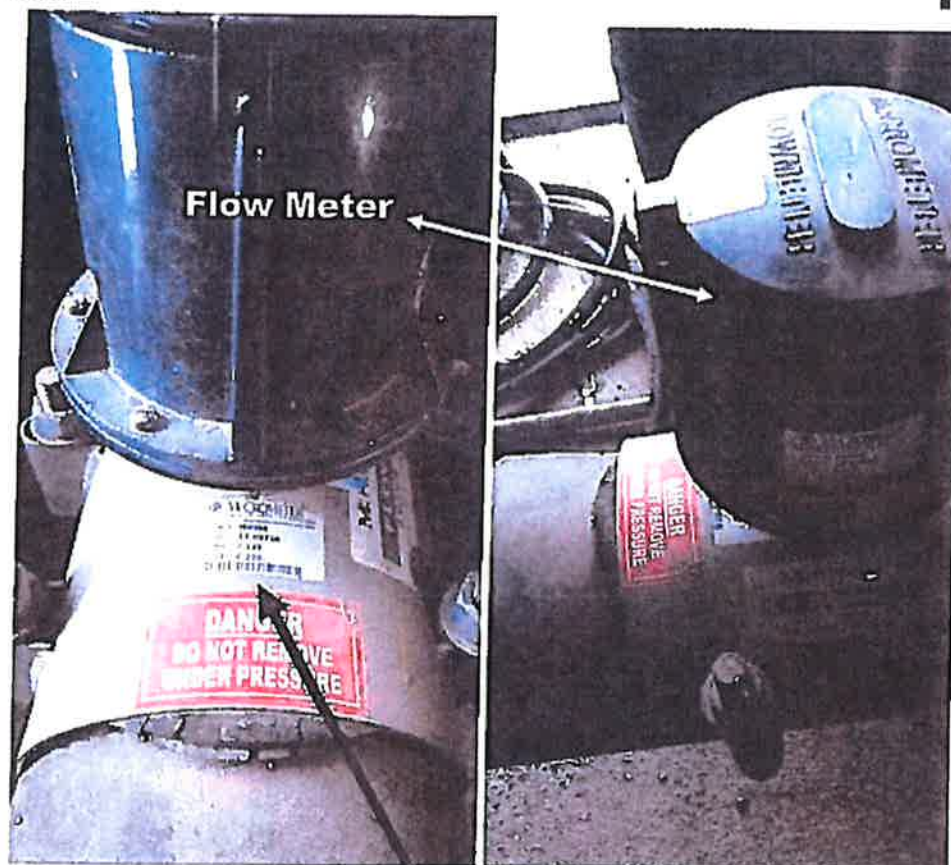
37-8856

Photos



37-8856

Photos

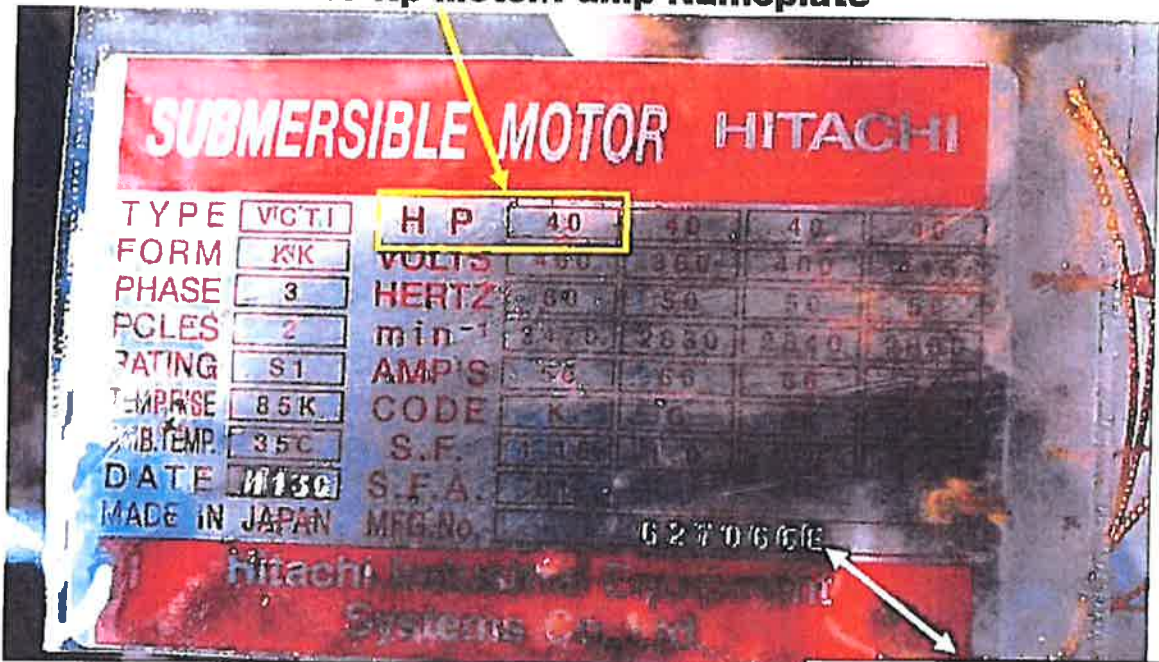


Flow Meter Tag for 40 Hp Submersible Hitachi Pump

37-8856

Photos

40 Hp Motor/Pump Nameplate



MFG. No: G027066E

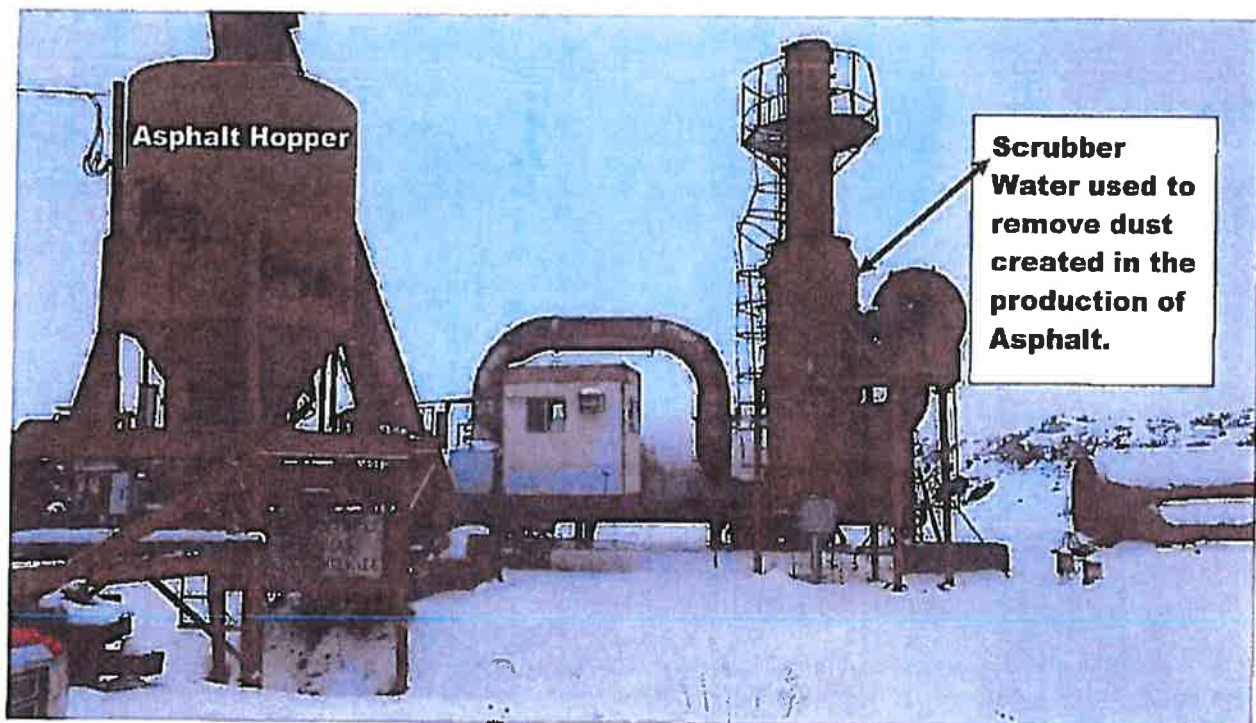
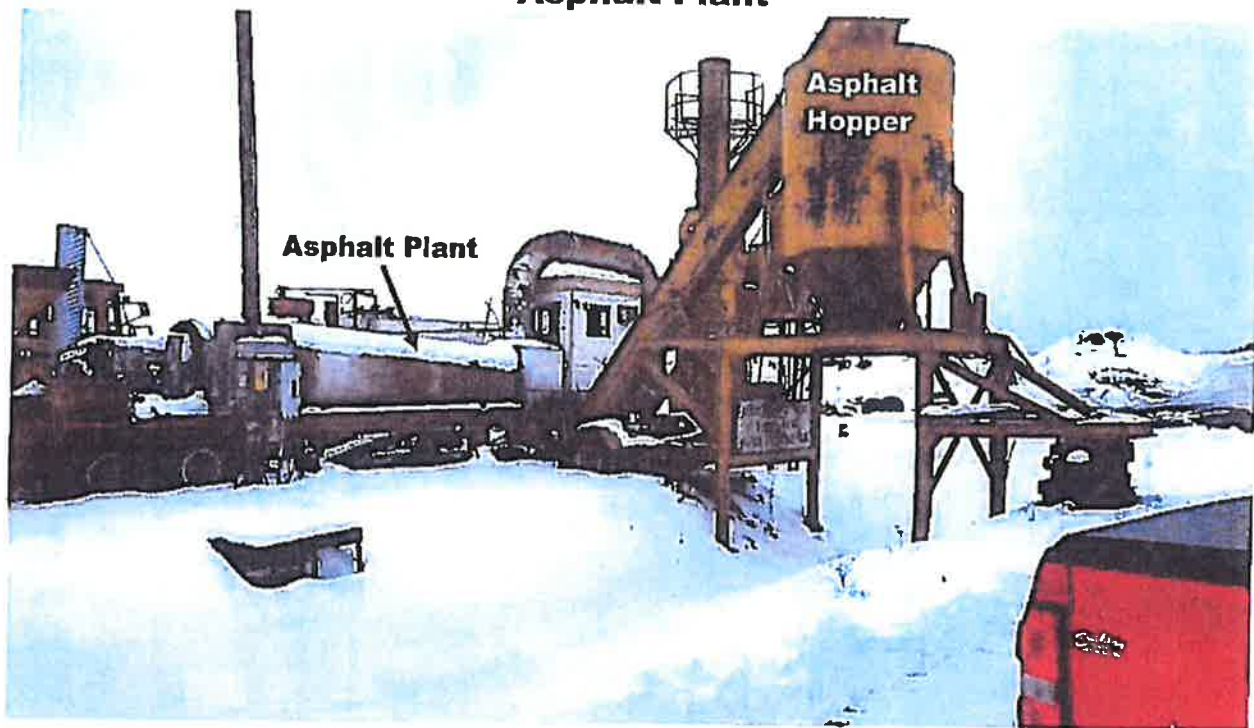
Well



37-8856

Photos

Asphalt Plant



PAGE 1 OF 2

JULY 17, 2017

TO: MR. ROGER WARNER
ROCKY MOUNTAIN ENVIRONMENTAL
482 CONSTITUTION WAY STE. 303
IDAHO FALLS, IDAHO 83420

FROM: B. C. PORTER & ASSOCIATES FOR:
ANDERSON ASPHALT PAVING, INC.
WALTERS REDI MIX
10828 HWY 75
BELLEVUE, IDAHO 83313

ROGER:

ON SATURDAY, JULY 15, 2017 ANDERSON ASPHALT AND WALTERS REDI MIX COMPLETED REQUIREMENTS FOR RECHARGE WATER FROM THE CANAL ON THE EAST BOUNDARY OF THEIR PLANT FACILITIES INTO THE MAIN GRAVEL PIT BY USE OF 5 GAS PUMPS 3" & 2" DISCHARGE PORTS.

PAGE 2 OF SUBMITTAL HAS TEST PUMP CHECKS AND CALCS FOR FLOW.

THANKS,

B.C. PORTER

A handwritten signature in black ink, appearing to be "B.C. Porter", written over a horizontal line.

CC: ANDERSON ASPHALT, WALTERS REDI MIX, B.C.P.

PUMP TEST DATA

FLOW CALCULATIONS

2 EA. HONDA 3" SEMI TRASH PUMPS GX-340

#1 110 GAL/ 19 SEC. = 19140 QPH

#2 110 GAL/18.9 SEC.	#1	319 QPM
	#2	319 QPM

1 EA. HONDA 3" SEMI TRASH PUMP

WHACKER PUMP

100 GAL/15.1SEC = 24000 QPH	400 QPM
------------------------------------	----------------

1 EA. 2" SEMI TRASH PUMP GX 160

100 GAL/31 SEC. = 11820 QPH	197 QPM
------------------------------------	----------------

1422 QPM

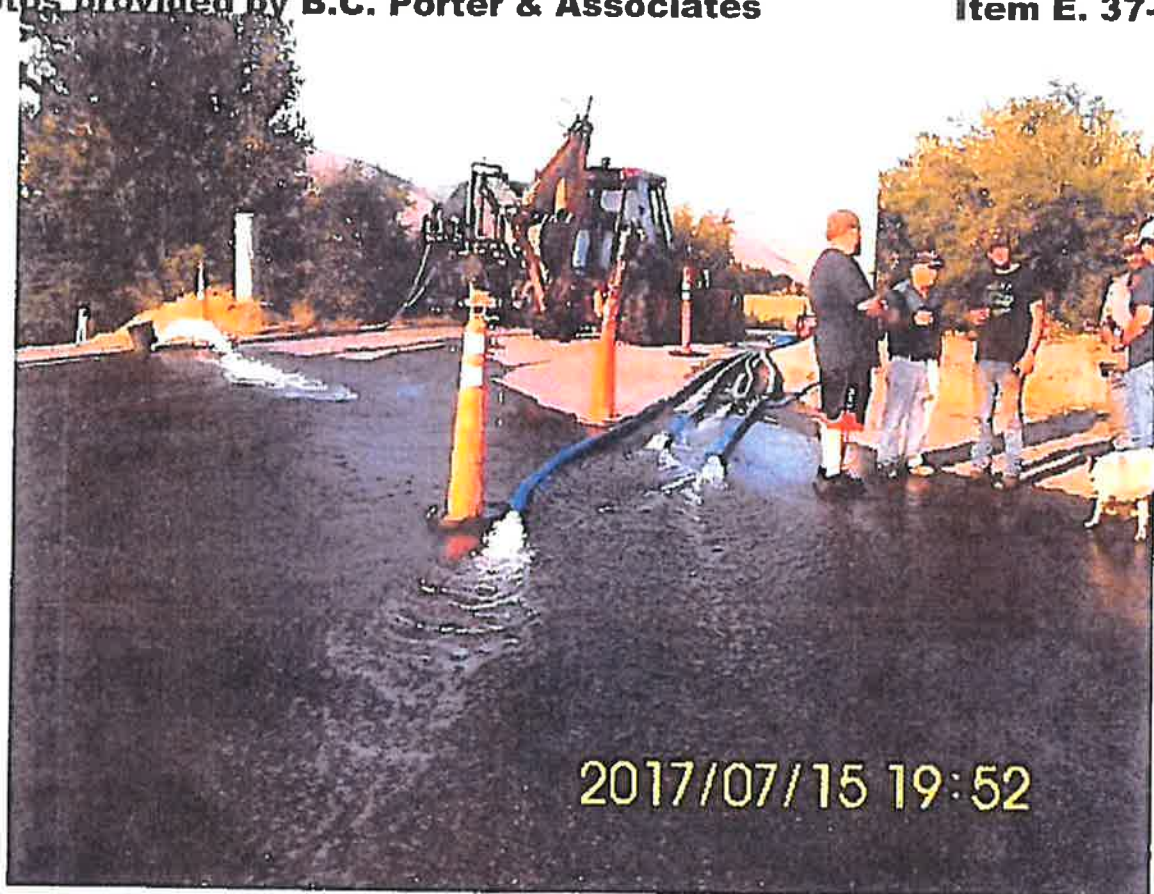
1422/ QPM = 85320 QPH

DURATION TIME OF PUMPING

10:00 A.M. TO 8:00 P.M. 10 HRS.

REQUIRED 2.5 ACRE FT. 814,625 GAL.

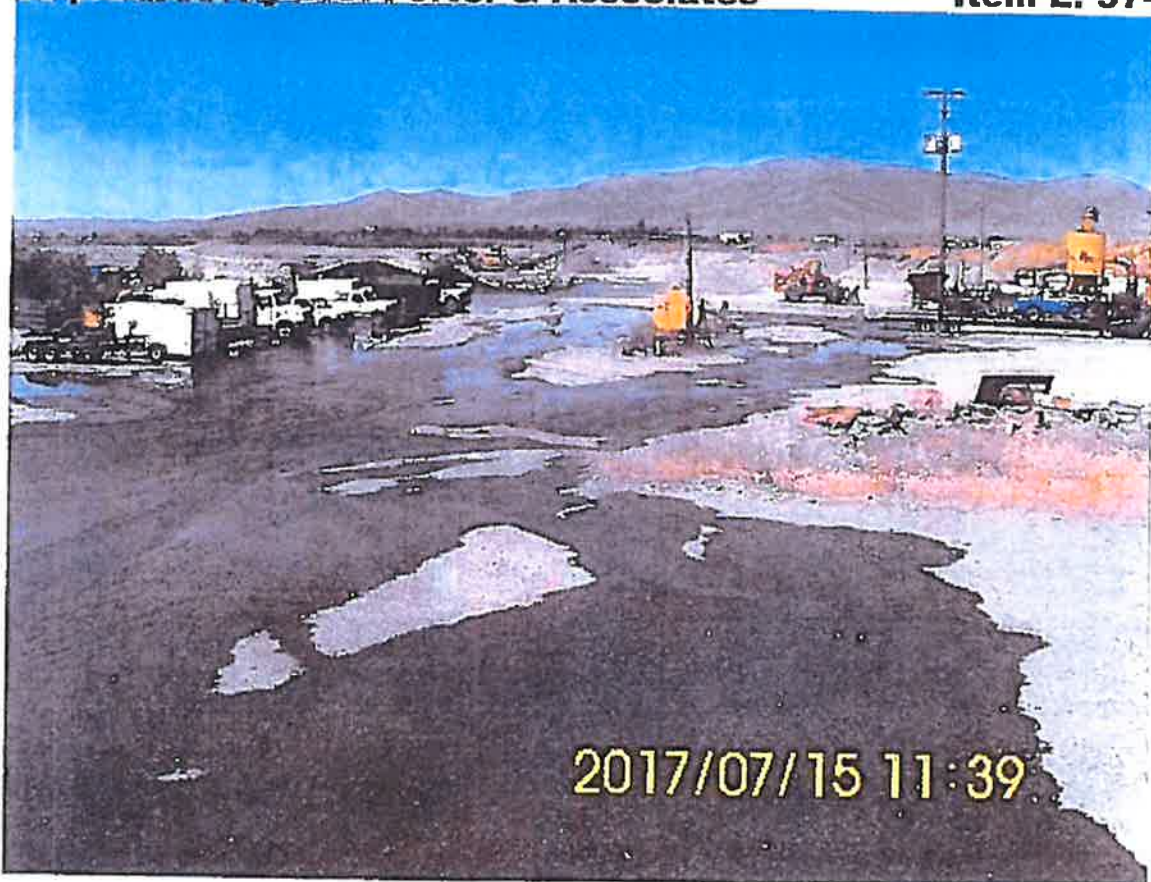
PUMPED 853,200 GAL

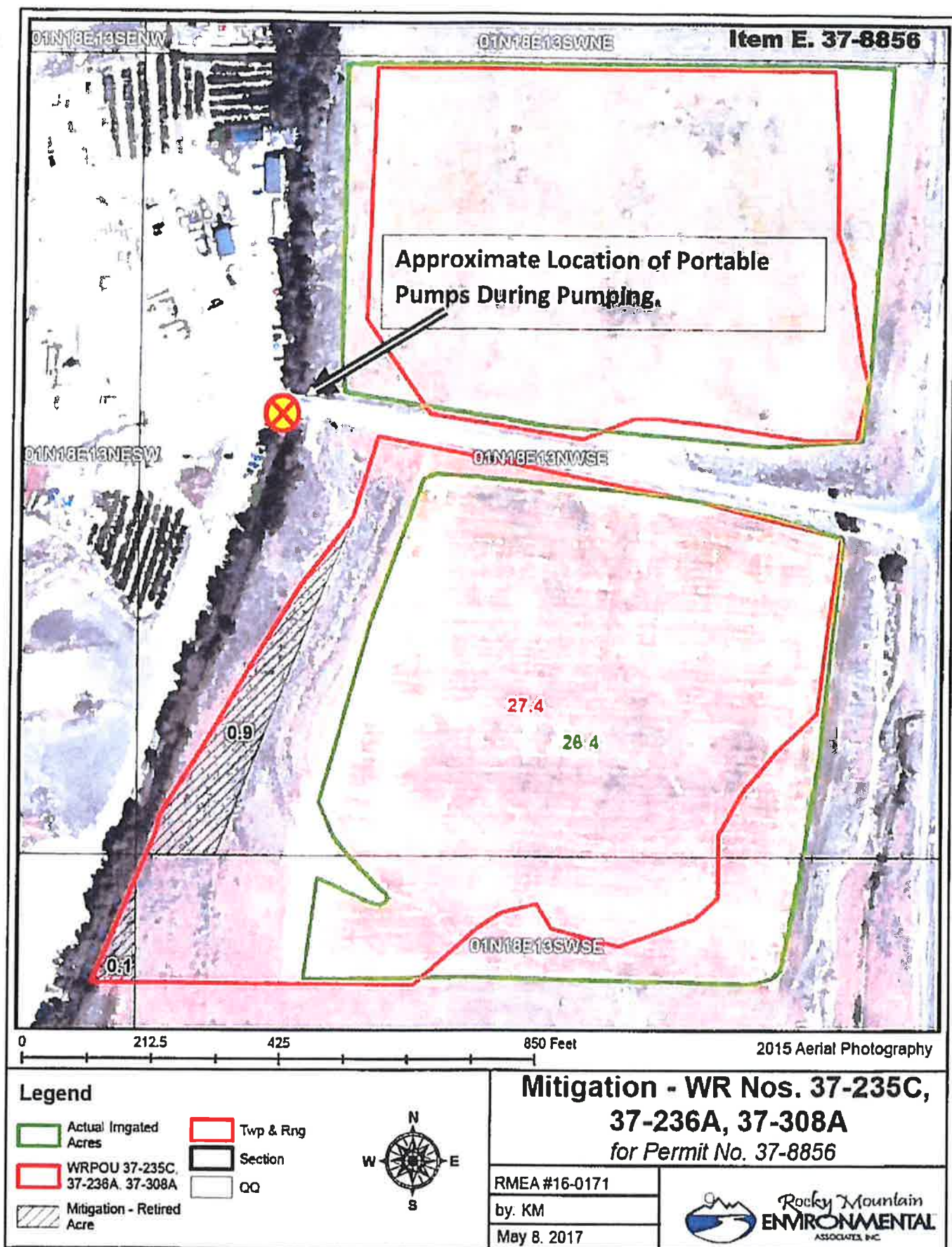












Walters-Bellevue

Non-Consumptive Volume at the Concrete Batch Plant

Annual Operations

- 1 Batch Plant runs 12-15 trucks per d Average of 13.5 trucks per day
- 2 Each truck has a 250 gallon temper tank that is filled for each load and then emptied into the gravel pit.
- 3 Each truck is washed, cleaning the drum, after each load.
- 4 Each truck carries anywhere from 1 yard to 9.5 yards per load.
- 5 The volume of water used or washing a truck varies depending on size of load but can be up to 250 gallons per load.
- 6 An average of 100 gallons per truck can be used to determine volume used for washing.
- 7 Total non-consumptive volume per truck is 350 gallons.
- 8 250 days of operation.

Volume Calculation

$$13.5 \text{ trucks/day} \times 350 \text{ gal/truck} \times 250 \text{ days/yr} = 1,181,250 \text{ gal/yr}$$

$$1,181,250 \text{ gal/yr} / 325,850 \text{ gal/af} = 3.63 \text{ afa}$$



Walters-Bellevue

Non-Consumptive Volume at the Concrete Batch Plant***Amended***

Annual Operations

1 Batch Plant runs 6 trucks per day, or up to 24 truck loads/day.

Each truck has a 200 gallon Temper Tank that is filled for each load. On average about 1/2 or 100
2 gallons is dumped in the gravel pit following delivery and refilled for the next load.

At days end, each truck is washed down from Temper Tank, main drum is filled separately with 300
3 gallons, rinsed, and then dumped in gravel pit for a total of 500 gallons per truck.

Each truck carries anywhere from 1 to 9.5 yards per load varying the amount of water used from
4 the Temper Tank for the concrete batch.

5 The volume of water used for washing a truck varies depending on size of load but can be up to
200 gallons per load if no water is added to the concrete batch.

6 An average of 100 gallons per load was used to determine volume used for washing.

7 Total non-consumptive volume per truck per day is 900 gallons.

8 250 days of operation.

Volume Calculation

24 truck loads/day x 100 gal/truck x 250 days/yr = 600,000 gal/yr

6 trucks washed out/day x 500 gal/truck x 250 days/yr = 750,000 gal/yr

1,350,000 gal/yr / 325,850 gal/af = **4.14 AFA TOTAL TRUCK WASH AND DRUM WASHOUT**

750,000 gal/yr / 325,850 gal/af = **2.30 AFA TOTAL END OF DAY TRUCK WASHOUT ONLY**



MEMORANDUM

DATE: December 12, 2017

TO: Water Right File 37-8856

FROM: Shelley W. Keen ^{SWK}

RE: Phone call from Roger Warner

This afternoon Roger Warner of Rocky Mountain Environmental called to discuss Steve Visosky's letter assessing and returning the Beneficial Use Field Report for Permit 37-8856. Roger sought my opinion regarding the field report and further efforts to confirm implementation of the required mitigation. I told Roger that because the field report lacks information confirming implementation of the required mitigation during the development period for the permit, IDWR cannot so far confirm his client has met the statutory requirements for issuing a license (i.e., demonstrating compliance with the mitigation requirements in the permit conditions). I reminded Roger that there is still time to respond to Steve's letter with additional information before IDWR takes action on the permit. We discussed that IDWR will need to see additional evidence confirming the necessary mitigation or, possibly, evidence that the permit holder implemented alternative mitigation accomplishing every objective of the approved mitigation during the development period. Roger said he would consult with his client about how to respond.



FAX TRANSMISSION

HOGUE, SPECK & AANESTAD, P.A.

120 EAST AVENUE

P. O. Box 987

KETCHUM, ID 83340

1-208-726-4421

FAX: 1-208-726-0752

TO: Jim Johnson

DATE: December 17, 1996

FAX #: (208) 327-7866

PAGES: 1, including cover sheet

FROM: James P. Speck

SUBJECT: Heath-Marshall/Permit 37-08856

Jim -

Thanks for your fax. I've gone through our original application and proposed mitigation plan and have the following thoughts:

1. The permit should be for two (2) separate industrial uses. The first, 0.23 cfs for the asphalt hot mix plant, is non-consumptive. Perhaps this should be identified as a separate beneficial use subject to the condition that the use always be non-consumptive.
2. The second use is 0.92 cfs for the concrete production plant. This use is projected to consume approximately 300,000 gallons per year. Mitigation should be required only for this use.
3. The "mitigation rights" are subject to a total annual diversion volume limitation of 3.5 acre-feet. The diversion of the total annual diversion volume for these rights into the gravel pit should replace the amount consumed by the concrete plant. The portion of the concrete plant diversion - limited to 0.92 cfs each day during the year - not consumed in the concrete produced is also returned to the aquifer. Therefore, there should not be an annual diversion volume restriction on either portion of this right.

Please call with your comments. Thanks.

Jim
$$\begin{array}{r} .23 \\ .92 \\ \hline 1.15 \end{array}$$

THE INFORMATION CONTAINED IN THIS FAX TRANSMISSION IS CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE ABOVE-NAMED RECIPIENT AND MAY BE THE SUBJECT OF ATTORNEY/CLIENT PRIVILEGE. IF THE READER OF THIS MESSAGE IS NOT THE ABOVE-NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISTRIBUTION, DISSEMINATION, COPYING OR OTHER USE OF THIS COMMUNICATION IS STRICTLY PROHIBITED AND NO PRIVILEGE IS WAIVED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. THANK YOU.

- 1 -

MICROFILMED
JAN 23 1997



State of Idaho
Department of Water Resources

****AMENDED****

Permit To Appropriate Water
NO. 37-08856

****AMENDED****

Proposed Priority: July 15, 1996

Maximum Diversion Rate:

1.15 CFS

This is to certify, that **HEATH MARSHALL INC**
C/O JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340-0987

has applied for a permit to appropriate water from: **GROUNDWATER**

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

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

INDUSTRIAL

01/01 to 12/31

1.15 CFS

LOCATION OF POINT(S) OF DIVERSION:

NESW , Sec. 13, Township 01N, Range 18E

SESW , Sec. 13, Township 01N, Range 18E

BLAINE County

PLACE OF USE: INDUSTRIAL

TWN RGE SEC

01N 18E 13

NESW

SWSW

SESW

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **December 1, 1999**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Use of water under this right is subject to control by the watermaster of State Water District No. 37.
5. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
6. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
7. The right holder shall comply with Idaho well construction standards when constructing a well pursuant to this right.
8. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
9. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.

RECORDED
JAN 23 1997

IDWR
10

State of Idaho
Department of Water Resources

AMENDED

Permit To Appropriate Water

AMENDED

NO. 37-08856

CONDITIONS OF APPROVAL AND REMARKS

10. The Director retains jurisdiction over this right and may change, add, or remove any requirement as determined to be appropriate.
11. The use of water under this right is contingent upon the implementation of the following three measures to mitigate potential impacts to prior surface and groundwater rights:
 - a. The right holder shall discontinue the irrigation of one acre within the NWSE, S13, T01N, R18E, under Rights 37-00235A, 37-00236, and 37-00308.
 - b. The water normally diverted for the irrigation of the one acre, currently estimated by the applicant to be 0.224 cfs, shall be diverted into a gravel pit located in Sec. 13 to compensate for the annual consumption of approximately 2.5 acre feet of water under this right.
 - c. Diversion and use of water under this right may occur only if the right holder has annually diverted 2.5 AF of water to the gravel pit under rights 37-00235A, 37-00236, and 37-00308 as mitigation for the industrial use.
12. For purposes of regulating this right with respect to other groundwater rights, the priority of this right shall be July 15, 1996.
13. The Director retains jurisdiction over the use of water under this right to adjust the mitigation.
14. Prior to the diversion of water under this right, the right holder shall install and maintain a totalizing measuring device and lockable controlling works on each point of diversion. The right holder shall obtain prior approval of the department relative to the type of totalizing measuring device and lockable controlling works.
15. Industrial use is for an asphalt batch plant and concrete batch plant.
16. This approval does not confirm the validity or extent of rights 37-00235A, 37-00236, or 37-00308.
17. The right holder shall cease diversion under this right if the right holder cannot perpetually provide suitable mitigation, as determined by the department.

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

9th day of January, 1997.

Karl J. Dreher
for Karl J. Dreher, Director

JAN 23 1997

RECEIVED

FOR OFFICE USE ONLY
Amt. of Fee \$: 125.00
Receipt No. 0240944
Receipt By: J. Marshall
Date Received: 10-22-99

REC'D

OCT 22 1999

OCT 22 1999

Department of Water Resources

STATE OF IDAHO

Department of Water Resources

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 37-08856 Telephone No. 208-233-1121

2. Name(s) of Permit Holder(s): HEATH-MARSHALL, INC

3. Mailing Address: PO BOX 250, POCAHELLO, ID, 83204

4. Source of Water: WELL If **GROUNDWATER** (well), Date Drilled: mo. 6 / yr. 1997

a. Well Driller: WOOD RIVER DRILLING & PUMP, INC Drilling Permit Number: 37-975-0013-000

b. **OPTIONAL:**
Pump Horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft): _____

5. Use(s) (as authorized by the water right permit):

Domestic (No. of households): _____ Stockwater (No. and type of stock): _____

Irrigation (No. of acres): _____ Other: INDUSTRIAL

6. Total rate of diversion and/or volume for which proof is submitted: 1.15 cfs OR _____ acre feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required? Yes X or No _____
Has the measuring device been installed? Yes _____ or No _____
Flow Measurement Port: Is a flow measurement port required? Yes _____ or No X
Has the measurement port been installed? Yes _____ or No _____

8. Fee Enclosed: \$ 125.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name: STACY WALTERS Telephone Number: 208-788-7989
~~HEATH-MARSHALL, INC - GLEN S. MARSHALL~~ 208-233-1121

Address: WALTERS READY MIX - ADJACENT TO WELL

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the State of Idaho.

HEATH-MARSHALL, INC

Signature of permit holder: Brian S. Marshall Date: 10-18-99
(include your title, if on behalf of company or organization)

MICROFILMED

JAN 28 2000

IDWR
11



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720 0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTIER
Governor

GARY SPACKMAN
Director

July 26, 2017

HEATH MARSHALL INC
PO BOX 250
POCATELLO ID 83204-0250

RE: Water Appropriation Permit 37-8856

Notice of Intent to Void Permit

Dear Permit Holder:

On January 9 1997, the Idaho Department of Water Resources (IDWR) issued permit 37-8856 in the name of Heath Marshall Inc. to appropriate ground water for industrial purposes within the NESW, SWSW, and SESW of Section 13, Township 01 North, Range 18 East within Blaine County. The permit included two points of diversion with a total diversion rate of 1.15 cfs. Because the original permit application was filed to divert ground water from the "Eastern Snake Plain Aquifer" at the time a moratorium order was in place, the applicant submitted a mitigation plan to offset injury to other rights. IDWR approved the permit contingent upon the implementation of the specific mitigation requirements stated in the approval conditions of the permit.

Under the terms of permit 37-8856, proof of the development and extent of beneficial use was to be submitted to IDWR by December 1, 1999. On October 22, 1999, IDWR received a "Proof of Beneficial Use" statement submitted by Glen Marshall. On October 15, 2014, IDWR staff visited the permitted place of use to initiate the collection of information for a beneficial use field examination. The purpose of IDWR's examination is to verify the extent of beneficial use of water established in accordance with the permit during the authorized development period, which ended when Glen Marshall submitted the Proof of Beneficial Use statement to IDWR in 1999. As the original permit owner (Heath Marshall Inc.) had sold and split the property, the visit was coordinated with the two new owners, Walters Ready Mix and Anderson Asphalt Paving. Both of the new property owners submitted change in water right ownership notices, supported by warranty deeds showing the conveyance of real property, to IDWR. However, a permit to appropriate water is considered personal property that must be assigned from one owner to another. Therefore, the ownership change notices cannot be processed at this time. Both of the ownership change notices are currently on hold at IDWR pending the outcome of the beneficial use examination. If IDWR issues a water right license confirming the establishment of a water right, IDWR may be able to process the ownership change notices at that time.

IDWR
12

In October of 2016, I attempted to contact both of the new owners of the permitted place of use to collect more information related to the conditions of approval listed on permit 37-8856. The specific conditions of concern require mitigation measures to reduce the impacts of the permitted water use on prior surface and ground water rights. The specific mitigation measures listed on the permit include:

- "The right holder shall discontinue the irrigation of one acre within the NWSE, S13, T01N, R18E, under Rights 37-00235A, 37-00236, and 37-00308."
- "The water normally diverted for the irrigation of one acre, currently estimated by the applicant to be 0.224 cfs, shall be diverted into a gravel pit located in Sec. 13 to compensate for the annual consumption of approximately 2.5 acre feet of water under this right."
- "Diversion and use of water under this right may occur only if the right holder has annually diverted 2.5 AF of water to the gravel pit under rights 37-00235A, 37-00236, and 37-00308 as mitigation for the industrial use."

On December 7, 2016, Roger Warner with Rocky Mountain Environmental Associates, Inc., a certified water right examiner, contacted IDWR and stated that Walters Ready Mix had requested his services to complete the beneficial use field examination on behalf of both of the new property owners. On March 17, 2017, Roger Warner, IDWR Water Rights Section Manager Shelley Keen, and I held a conference call to discuss specific concerns and agree upon reasonable deadlines for submittal of the beneficial use examination field report. As IDWR was understanding of the challenges related to obtaining information, it was agreed upon that July 15, 2017, was the required deadline for Rocky Mountain Environmental Associates to submit a beneficial use examination field report for permit 37-8856.

During the conference call on March 17, 2017, Roger Warner mentioned that his clients now had a better understanding of the permit and were considering renting water from the Water Supply Bank. Shelley Keen made it very clear that if Roger's clients were to rent water, it may show "good intention" however, it would not rectify any permit conditions that were not fulfilled. On June 9, 2017, Walters Ready Mix entered into an agreement with the Water Supply Bank to rent 2.5 AF of ground water for the beneficial use of "Mitigation by Non-Use" for the 2017 season from 4/15 through 10/31. As this rental agreement of water may have shown "good intention", it does not fulfill the specific requirements of the conditions listed on the permit, which were to have been implemented when water was first diverted and put to beneficial use.

The final step in the water appropriation process is the issuance of a Water Right License. A Water Right License is based on the beneficial use field report, including whether the permit holder complied with the conditions of approval. By issuing a license, IDWR recognizes that you have met the requirements for establishing a water right. The agreed-upon deadline of July 15, 2017, has passed, and IDWR has not received a beneficial use field report from Rocky Mountain Environmental. **Therefore, no evidence has been provided to confirm that the permit holder has complied with the laws and conditions of the permit.**

If you believe a water right should be issued in connection with permit 37-8856, please supply information to demonstrate that the permitted beneficial use was developed during the authorized development period for the permit. The information must also demonstrate compliance with the conditions of approval listed on the permit. If IDWR does not receive the requested information from you within thirty days, I will take action to void your permit under the provision of Section 42-219(8) of the Idaho Code. If you agree that no beneficial use of water occurred including compliance of the conditions of approval listed on permit 37-8856, you can shorten the voiding process by completing the enclosed relinquishment form and returning it to IDWR.

If you have any questions, please contact me at 208-287-4933.

Respectfully,

A handwritten signature in black ink, appearing to read 'S. Visosky', with a stylized flourish at the end.

Steven Visosky
Water Resource Agent, Sr.

Cc: Heath Marshall Inc
Walters Ready Mix, Douglas Walters
Davis Walters and Charlene Walters
Anderson Asphalt Paving, Larry Anderson
Rocky Mountain Environmental, Roger Warner

Mailings for Intent to Void 37-8856

HEATH MARSHALL INC
PO BOX 250
POCATELLO ID 83204-0250

LARRY ANDERSON
ANDERSON ASPHALT PAVING INC
PO BOX 759
HAILEY ID 83333

DOUGLAS WALTERS
10820 HWY 75
PO BOX 66
BELLEVUE ID 83313

DAVID AND CHARLENE WALTERS
PO BOX 390
REXBURG ID 83440

ROGER WARNER
ROCKY MOUNTAIN ENVIRONMENTAL
482 CONSTITUTION WAY SUITE 303
IDAHO FALLS ID 83402



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720 0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 7, 2017

PAUL SCORESBY
ROCKY MOUNTAIN ENVIRONMENTAL ASSOCIATES INC
482 CONSTITUTION WAY SUITE 303
IDAHO FALLS IDAHO 83402

RE: Water Appropriation Permit 37-8856

Dear Mr. Scoresby:

I have been asked to review the Beneficial Use Field Report you submitted for permit 37-8856. There are a couple of issues I need clarification on before I can determine whether the field report confirms beneficial use consistent with the permit and supports issuance of a water right license. I will discuss each issue below:

Insufficient evidence of the implementation of required mitigation measures listed in the condition during the development period of the permit:

The specific mitigation measures listed on the permit include:

- "The right holder shall discontinue the irrigation of one acre within the NWSE, S13, T01N, R18E, under Rights 37-00235A, 37-00236, and 37-00308."
- "The water normally diverted for the irrigation of one acre, currently estimated by the applicant to be 0.224 cfs, shall be diverted into a gravel pit located in Sec. 13 to compensate for the annual consumption of approximately 2.5 acre feet of water under this right."
- "Diversion and use of water under this right may occur only if the right holder has annually diverted 2.5 AF of water to the gravel pit under rights 37-00235A, 37-00236, and 37-00308 as mitigation for the industrial use."

Because there is a moratorium on development of new consumptive uses of water from the permitted water source, these mitigation measures were necessary conditions of permit approval. Without them, the permit would not have been approvable. As stated in the permit's conditions of approval, the "use of water . . . is contingent upon the implementation" of the mitigation measures.

The field report does not include evidence to clearly confirm the permit holder annually diverted 2.5 AF of water to the gravel pit **during the development period of the permit.**

The field report also does not include evidence confirming the permit holder discontinued the irrigation

JDWR
#13

of one acre within the NW 1/4, S13, T01N, R18E, under rights 37-235C, 37-236A, and 37-308A (the splits of the rights originally described in the condition). Aerial imagery (see attached photo image) indicates the entire 27.4 acres of permitted irrigation under water rights 37-235C, 37-236A, and 37-308A was put to beneficial use in 2006.

Idaho Code § 42-219(8) states the following:

In the event that the department shall find that the applicant has not fully complied with the law and the conditions of permit, it may issue a license for that portion of the use which is in accordance with the permit, or may refuse issuance of a license and void the permit. Notice of such action shall be forwarded to the permit holder by certified mail. The applicant may contest such action by the department pursuant to section 42-1701A(3), Idaho Code.

Without evidence showing the conditions of the permit were clearly met **during the authorized development period**, IDWR may not issue a license in connection with the permit.

Volume calculation missing:

The field exam report does not provide a recommended annual diversion volume in Section H, as is required. IDAPA Beneficial Use Examination Rule 37.03.02.035.01.j states the following:

For each use of water the examiner shall report an annual diversion volume based on actual beneficial use during the development period for the permit. The method of determining the annual diversion volume shall be shown. The annual diversion volume shall account for seasonal variations in factors affecting water use, including seasonal variations in water availability. For irrigation, the volume shall be based on the field headgate requirements in the map titled Irrigation Field Headgate Requirement appended to these rules (see Appendix A located at the end of this chapter). Annual diversion volumes for heating and cooling uses may be adjusted to account for documented weather conditions during any single heating or cooling season from among the fifty (50) years immediately prior to submitting proof of beneficial use for the permit. For storage uses that include filling the reservoir and periodically replenishing evaporation and seepage losses throughout the year, the annual diversion volume shall be the sum of the amounts used for filling and for replenishment. Volumes may include reasonable conveyance losses actually incurred by the water user....

Some volume calculations for the concrete batch plant were submitted using 27 gal/yard and 30 gal/yard. I am not sure which volume amount should be used. No volume calculation was stated for the Asphalt Plant. A total volume calculation for all uses covered under the permit is not listed (including the non-consumptive portion used at the Asphalt Plant).

Without a recommended volume on the field report showing the entire amount of water annually diverted from the points of diversion and beneficially used during the authorized development period for the permit, this field report is not complete.

Rate clarification:

There is a difference between the maximum diversion rate you observed during your field examination

and the maximum diversion rate observed by Idaho Department of Water Resources ("IDWR") staff on 11/15/2014. In your report, you stated the McCrometer flowmeter read 1.84 cfs with "valves entirely open." On 11/15/2014, IDWR staff recorded a maximum flow rate of 0.82 cfs. However this rate only accounted for the maximum flow rate at the Asphalt Plant.

I understand the difference between the rate you observed and the rate IDWR observed may be the result of IDWR's rate not including the Concrete Batch Plant. However, my concern is your wording of "valves entirely open." IDAPA Beneficial Use Examination Rule 37.03.05.040.02 states the following:

Rate of Diversion. The rate of diversion measurement shall be conducted as close as reasonably possible to the source of supply and shall be measured with the project works fully in place operating at normal capacity. For example, if a sprinkler system is used for irrigation purposes, discharge from the pump must be measured with the sprinkler system connected.

We need to ensure that the 1.15 cfs recommended is the maximum diversion rate under **normal operating conditions**. Please give a brief description of how the 1.15 cfs is used under the normal operations of the plant and how often those maximum conditions are applied to the normal daily operation of the plant.

Place of Use overlap:

In your field report, you stated "N/A" to other water rights with the same place of use, same source, or same point of diversion. Records of IDWR indicate water right 37-12966 overlaps the Place of Use of this permit. Water right 37-12966 is for domestic use, owned by Larry and Lexie Anderson, with a source from ground water. Could you please clarify any interconnection / relationship between permit 37-8856 and water right 37-12966 as it relates to the industrial process at the Asphalt Plant? IDAPA Beneficial Use Examination Rule 37.03.05.035.01.d states the following:

Any interconnection of the water use being examined with other water rights or with other conveyance systems shall be described on the field report. Interconnection includes, but is not limited to, sharing the same point of diversion, distribution system, place of use, or beneficial use. The examination report shall also include an evaluation of how the water use being examined is distinct from prior existing water rights and provides an alternate source of water or increment of beneficial use not authorized by prior existing water rights.

Aerial imagery available to the Department suggests that this site has been used for gravel extraction since the 1980's, so we need to know how right 37-12966 was used on the site, and if it is still being used. If it is still being used, we will need a detailed description of what it is used for and if it is connected into the industrial use for this facility.

Conclusion:

Idaho Code and the IDAPA Beneficial Use Rules are very clear about what is required to complete a beneficial use field report and to confirm beneficial use. Without the required information, IDWR cannot confirm the beneficial use of water was established as authorized by the permit. Your field report is being returned to you pursuant to IDAPA Beneficial Use Examination Rule 35.02.b because it does

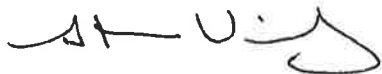
not include the required annual diversion volume recommendation based on actual beneficial use. In addition, IDWR is requesting the following information pursuant to IDAPA Beneficial Use Examination Rule 35.02.c to clarify your beneficial use field report for permit 37-8856:

1. Submit clear evidence that the permit holder has annually delivered at least 2.5 AF of water to the gravel pit under water rights 37-235C, 37-236A, and 37-308A (the splits of the rights originally described in the condition) during the development period of the permit.
2. Submit clear evidence the right holder discontinued the irrigation of one acre within the NWSE, S13, T01N, R18E, under Rights 37-235C, 37-236A, and 37-308A (the splits of the rights originally described in the condition).
3. For the total annual volume recommendation based on actual diversion and beneficial use, specify the amounts associated with the consumptive and the non-consumptive portions.
4. Clarify the "valves entirely open" when you obtained the diversion rate for the Concrete Batch Plant.
5. Clarify any interconnection / relationship with overlapping water right 37-12966.

The Department will hold permit 37-8856 an additional 30 days for you to supply a complete beneficial use field report and the clarifying information requested in this letter. If the field report and requested information are not received, IDWR will be unable to confirm that the permit requirements were met during the authorized development period for the permit, and IDWR will move forward with voiding the permit pursuant to Idaho Code § 42-219(8). If your client is no longer interested in this permit, I have enclosed relinquishment form to be completed and returned to IDWR.

If you have any questions, please contact me at 208-287-4933.

Respectfully,

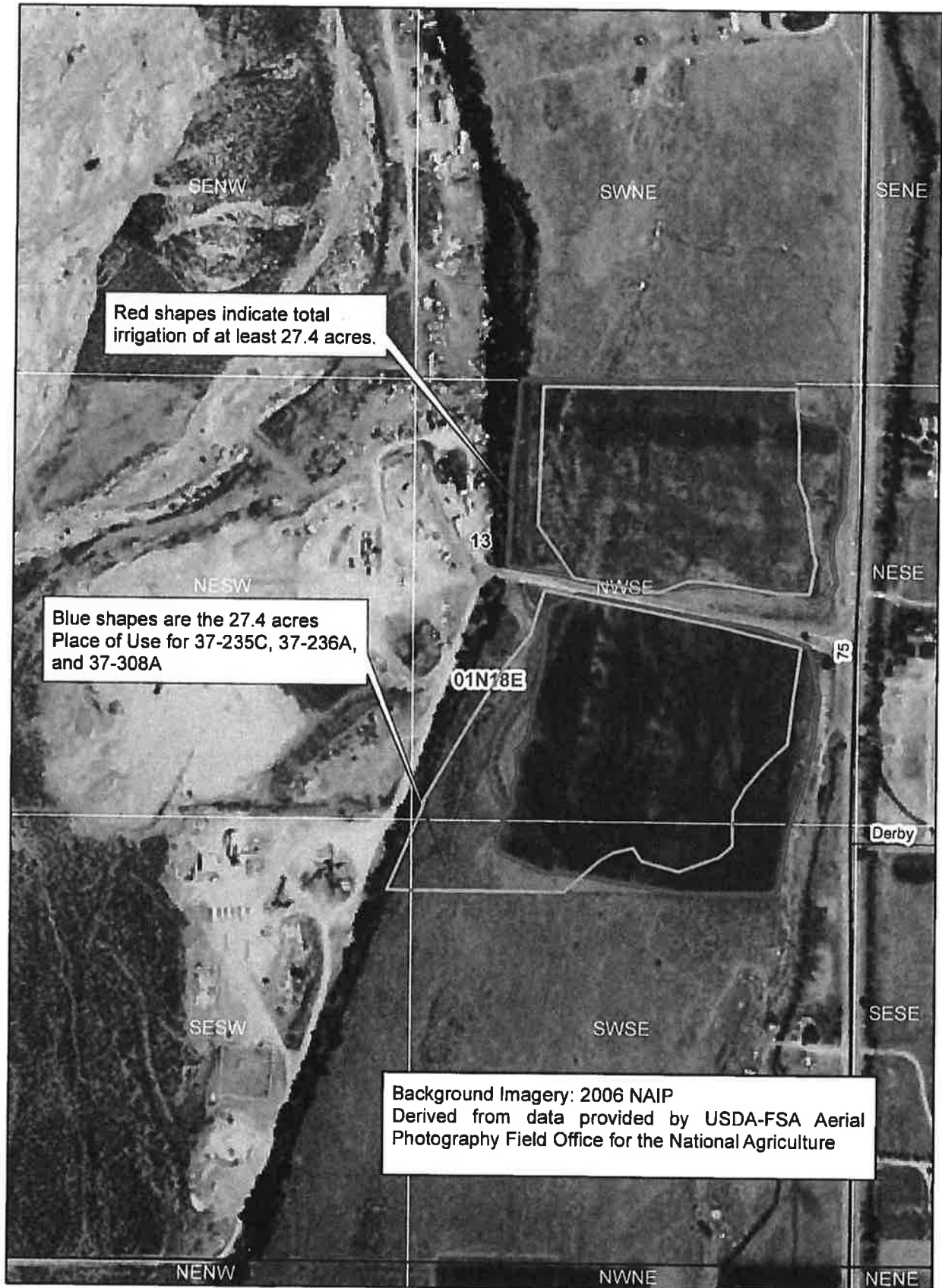


Steven Visosky
Water Resource Agent, Sr.

Enclosure – Relinquishment of Permit Form

Cc: Heath Marshall Inc.
David Walters and Charlene Walters
Anderson Asphalt Paving, Inc.

COPY



Map created by Steven Visosky for demonstrative purposes of permit 37-8856 field exam review.
November 21, 2017

FROM: Allen Merritt *AM*

DATE: April 19, 1996

TO: Transfer File #4756 in the name of Heath-Marshall (H-M)

SUBJECT: Pre-Hearing conference and subsequent developments

On 4/9/96 I conducted a pre-hearing conference at Hailey, ID in the Commissioner's Rm in the Blaine County Courthouse. The conference was prompted by Ken Smith and the desire to get a well drilled for the asphalt plant needs. The attached roster of attendance documents who attended. Both applicant and protestant were in attendance.

Mr. Marshall (applicant) described what he was attempting to do with the transfer. After his explanation it appeared that the application did not reflect what he was wanting to do. His explanation indicated that he did not want to irrigate from Bypass canal but would remain in the District canal where the water is presently diverted. We discussed the need for the application to be modified to correctly represent the intent. Mrs. Mann (protestant) described her concern about development of new water use and concern that there would be a resulting over appropriation of water of just a few acres and also a concern that the water may have been lost or not used. Mr. Eakin (manager of District canal) expressed his concern of taking the water out of the canal since the rights share the loss in the ditch.

I commented that in the transfer process or ultimately in the SRBA review the department must consider issues of forfeiture and also issues about the burden of use on the water for the acres being irrigated. I indicated in our analysis we must consider issues of loss in delivery ditches and injury issues. I passed out the handout about the specific issues we could consider in approving or denying a transfer. Mr. Marshall indicated that they had always called for their water and paid the assessment and when they irrigated the whole ranch they needed all the water.

In review of the file it appears the ranch has been split up and water divided up. As a result H-M has kept a large share of the water and large share of the land. The problem appears that the land kept by H-M is mostly gravel riverbottom which historically has not or cannot be irrigated. The land sold off has the lion share of the irrigated land but it did not go with it's share of the water. We discussed this problem and there appeared to be understanding that if not straightened out the water rights could be lost. The applicant seemed to want to redistribute the water back on the irrigated land and talked of selling it to Jim Walker who bought much of the irrigated land. It was also revealed that the gravel & asphalt operation was already using water and had done so for several years. We talked about them looking into claiming an accomplished transfer to record this use.

We discussed the need of the asphalt plant and the possibility

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their use was non-consumptive and maybe they should file an application for permit. I told them that they would have to demonstrate what the consumptive use would be to see if a permit could be processed. We also discussed that if the use was consumptive they could still file for a permit and offered a mitigation plan. The mitigation could be provided by transfer of existing rights but may only need to mitigate the consumptive use projected.

We ended the conference on the note that Mr. Marshall was going to re-think his transfer and that there may be alternatives for the asphalt plant to explore. Mr. Marshall was going to call and get an appointment to see me about doing something with the filing &/or SRBA claims.

A day or so later Mr. Marshall phoned and made an appointment for 5/2. On 4/17 he called and left word to cancel the appointment since he had turned the matter over to Jim Speck. On this day Mr. Speck has called and requested copies of related water rights files.

I plan to hold file until instructed otherwise by applicant's attorney.

To	<u>Allen</u>		
Date	<u>4-17</u>	Time	<u>9:36</u>
			☒ AM ☐ PM
WHILE YOU WERE OUT			
M	<u>Glenn Marshall</u>		
of	_____		
Phone	()	_____	
	Area Code	Number	Extension
TELEPHONED	☒	PLEASE CALL	☐
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐
RETURNED YOUR CALL		☐	
Message <u>please cancel appt</u> <u>on May 2 @ 10 a.m.</u> <u>Has told Jim Speck to</u> <u>handle his water problems</u>			
_____ _____ _____ Operator <u>th</u>			

LET'S
GET
BACK
TO
BASICS

#71100

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JAN 23 1997

FROM: Allen Merritt

DATE: September 16, 1996

TO: File: Application for Permit 37-08856

SUBJECT: Review & Recommendation

The application proposes to develop two wells for industrial use of an asphalt batch plant and a cement batch plant. As background this use was first attempted to be covered by transfer 4756 which was protested. (See Transfer 4756 File) This transfer has since been withdrawn. This application was advertised with no protests.

The wells are located in an area presently covered by the "Eastern Snake Plain Moratorium" as well as the "Big Wood River Groundwater Management area". The application was processed since the applicant offered a mitigation plan.

Recommendation:

I recommend that the application be approved subject to the following conditions:

1. A measuring device with totalizing meter shall be installed at both wells. It is recommended that the wells have air lines installed as part of the construction to report water levels. The wells must also have lockable means of control.
2. Both wells authorized under this permit must comply with the drilling permit requirement and meet IDWR well construction standards.
3. Subject to all county, state & federal permits that may be required.
4. The use of this permit and mitigation of the use is under the control of watermaster of District 37.
5. Use subject to annual mitigation plan as proposed. As mitigation 1/17th of the rights listed in part II of the mitigation plan shall be kept in the Big Wood River and not be allowed to be diverted by other users. This flow shall be allowed to sink in the river or be offered for future recharge projects. The irrigation of 1 acre within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 13, Twp.1N, Rge.18E, B.M. shall cease and the other portions of the rights shall provide for no more than irrigation of 16 acres. If mitigation is not provided then use of this permit shall cease.
6. The mitigation rights and remaining portions of rights are subject to SRBA review.

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