

09/21/2007

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

RIGHT NUMBER: 67-4169

NAME AND ADDRESS: B & L LAND & CATTLE CO INC
C/O ROY BILBAO/PRESIDENT
3577 COW CREEK RD
CAMBRIDGE ID 83610

B & L LAND & CATTLE CO INC
C/O CECIL BILBAO/VICE PRESIDENT
3597 COW CREEK RD
CAMBRIDGE ID 83610

SOURCE: COW CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 3.460 CFS

This water right shall not provide more than .02 cubic feet per second per acre at any time.

PRIORITY DATE: 04/01/1964

POINT OF DIVERSION:

T16N R03W S36 NWNW Within WASHINGTON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	3.460 CFS

PLACE OF USE: IRRIGATION in WASHINGTON County

T15N R02W S06 Lot 4 NWNW		T15N R02W S06 Lot 6 NWSW	4.00
T15N R03W S01 Lot 1 NENE	19.00	T15N R03W S01 Lot 2 NWNE	21.00
T15N R03W S01 SWNE	28.00	T15N R03W S01 SENE	28.00
T15N R03W S01 Lot 3 NENW	30.00	T15N R03W S01 SENW	23.00
T15N R03W S01 NESE	20.00		

173 ACRES TOTAL

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

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

See no.67-306, and 67-2126, for water rights irrigating adjoining property.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 200 head cattle, INCLUSIVE with irrigation.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4169 V1

WATER RIGHT NUMBER: 67-4169 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	B & L LAND & CATTLE CO INC C/O ROY BILBAO/PRESIDENT 3577 COW CREEK RD CAMBRIDGE, ID 83610 (208)257-3441
Current Owner	B & L LAND & CATTLE CO INC C/O CECIL BILBAO/VICE PRESIDENT 3597 COW CREEK RD CAMBRIDGE, ID 83610 (208)257-3583

Priority Date: 04/01/1964

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
COW CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	3.460 CFS	
	<u>Total Diversion:</u>	3.460 CFS	

Location of Point(s) of Diversion

COW CREEK	NW1/4NW1/4	Sec. 36, Twp 16N, Rge 03W, B.M.
WASHINGTON County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	02W	6						X				4.0							4.0
								L 4				L 6							
15N	03W	1	19.0	21.0	28.0	28.0	30.0			23.0					20.0				169.0
			L 1	L 2			L 3												

Total Acres: 173

Conditions of Approval:

1. X02 Stockwater use is for 200 head cattle, INCLUSIVE with irrigation.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. P27 See no.67-306, and 67-2126, for water rights irrigating adjoining property.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4169 V1

4. D08 This water right shall not provide more than .02 cubic feet per second per acre at any time.

Remarks:Comments:

1. csaxton 9/20/2006 Letter

Comment: See Letter from Attorney general for explanation.

2. shemenway 6/27/2007 LETTER & MAP

Comment: ADDITIONAL 76.8 ACRES X \$2/ACRE = \$153.60, BY 7/31/07, OR RECOMMEND 173.0 ACRES INSTEAD OF 249.8 ACRES.

3. shemenway 7/31/2007 RECOMMENDATION

Comment: NO CONTACT FROM CLAIMANT OR PAYMENT FOR ADDITIONAL ACREAGE; MADE RECOMMENDATIONS ACCORDING TO ORIGINAL FILING FOR 173.0 ACRES

4. shemenway 7/31/2007 INCREASE WATER

Comment: 38 ACRES FROM THIS CLAIM TRANSFERRED FROM POU IN SECTION 36, T16N, R3W, NW1/4, SW1/4, SW1/4, AND SW14, SW14. CLAIM A67-306 TO IRRIGATED ON THE SAME LANDS.

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal: S

Owner Name Connector: AND/OR

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Summary			09/20/2006	csaxton	Active
Priority Date	6/26/2007 1:29:07 PM	shemenway			Active
POD	6/26/2007 1:30:40 PM	shemenway			Active
Source	6/26/2007 1:32:05 PM	shemenway			Active
Contacts	6/26/2007 1:37:46 PM	shemenway			Active
Contacts	6/26/2007 1:38:15 PM	shemenway			Active
Use	6/26/2007 1:39:53 PM	shemenway			Active
Season	6/26/2007 1:40:57 PM	shemenway			Active
Quantity	6/26/2007 2:00:02 PM	shemenway			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4169 V1

Use	7/31/2007 9:25:50 AM	shemenway	Active
POU	7/31/2007 9:26:58 AM	shemenway	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Summary	9/20/2006 12:38:32 PM	csaxton	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 4. Is any portion of the claim be recommended? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
Contacts	6/26/2007 1:37:46 PM	shemenway	(Yes) 1. Do you want to schedule an appointment? (No) 2. Do you want to update the field exam contact information? Contact Person: - B & L LAND & CATTLE CO INC Contact Phone Number: (208)257-3583 Date of Field Exam: 05/22/2007 09:00 AM Directions to Property: North I84, take Hwy 95 off ramp through Payette, Weiser, continue north to Cambridge. Once in town, turn left at Hwy 71 towards Brownley, and go about 1 1/4 miles. Turn right on Rush Creek Rd. At split in the road, turn right on Cow Creek Rd. At the mail box 3597 Cow Creek Rd, turn right, and go up the dirt road to the last house on the left.
Contacts	6/26/2007 1:38:15 PM	shemenway	(Yes) 1. Do you want to schedule an appointment? (No) 2. Do you want to update the field exam contact information? Contact Person: - B & L LAND & CATTLE CO INC Contact Phone Number: (208)257-3583 Date of Field Exam: 05/22/2007 09:00 AM Directions to Property: North I84, take Hwy 95 off ramp through Payette, Weiser, continue north to Cambridge. Once in town, turn left at Hwy 71 towards Brownley, and go about 1 1/4 miles. Turn right on Rush Creek Rd. At split in the road, turn right on Cow Creek Rd. At the mail box 3597 Cow Creek Rd, turn right, and go up the dirt road to the last house on the left.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4169 V1

Use	6/26/2007 1:39:53 PM	shemenway	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - Field Inspection 5/22/2007.
Quantity	6/26/2007 2:00:03 PM	shemenway	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - Measured during field inspection Description for Question 7 - CONCRETE HEADGATE/WEIR MEASUREMENT DURING LOW FLOW = 5.33CFS; HIGH WATER MARK MEASUREMENT = 19.48CFS MAXIMUM CAPACITY OF SYSTEM.
Season	6/26/2007 1:40:57 PM	shemenway	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Source	6/26/2007 1:32:04 PM	shemenway	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - Field inspection 5/22/2007.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4169 V1

General	6/26/2007 1:29:06 PM	shemenway	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use? (Yes) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - Signed and notarized Affidavit (Ranch purchased 1963; started irrigating 4/1/1964).
POD	6/26/2007 1:30:40 PM	shemenway	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD?
POD	5/29/2007 3:09:18 PM	shemenway	Updated shape
Use	7/31/2007 9:26:12 AM	shemenway	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - FIELD EXAM CONDUCTED 5/22/07
POU	7/31/2007 9:27:19 AM	shemenway	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (Yes) 14. Is a POU remark and/or condition required? Description for Question 13 - FIELD EXAM CONDUCTED 5/22/07

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4169 V1

SubCase:

SubCase Number: 67-4169

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date:

Attorney Assigned:

Adjudication Agent: Craig Saxton

Basis of Claim:

Date Filed: 2/2/2007 Objection Status: Active

Water Supply Bank:



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 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

June 27, 2007

B&L Land & Cattle Co. Inc.
C/O Roy Bilbao
3577 Cow Creek Rd.
Cambridge, Idaho 83610

RE: Water Right Number 67-4169

Dear Mr. Bilbao,

Thank you again for your time, and information given while conducting the field inspection on your Water Right on May 22, 2007. I later met with Cecil Bilbao, who drew the Point of Use (acreage irrigated) on a topographical map. From this map, I constructed a map on Arc View, which calculated the Point of Use as 249.8 acres, instead of 173.0 acres as listed on the original water right application.

I have enclosed a copy of the original claim filed 7/12/1989 for 173 acres, and a copy of a revised claim constructed after the May 22, 2007 field inspection showing the 249.8 acres (not yet recommended). The difference between the original claim of 173.0 acres, and the 249.8 acres drawn by Cecil, is an increase of 76.8 acres. If you wish to claim the full 249.8 acres (highlighted in pink on the attached map), there will be an additional fee payable to IDWR for \$153.60. Fees were paid and received for the 173.0 acres 7/12/1989, Receipt No: W006280.

Please submit \$153.60 payable to IDWR by July 31, 2007, to retain the 249.8 acres claimed ($\$2 \text{ per acre increase} \times 76.8 \text{ acres} = \$153.60$). If you wish to retain the original 173.0 acres claimed, please submit a new detailed map indicating the 173.0 acres you wish to have recommended for this water right.

If you have any questions, please contact me directly at (208) 287-4920, or via my email: Sandy.Hemenway@idwr.idaho.gov

Sincerely,

Sandy Hemenway
Sr. Water Resource Agent

IDAHO DEPARTMENT OF WATER RESOURCES

Amended Adjudication Notice of Claim Report 67-4169 V1

WATER RIGHT NUMBER: 67-4169 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	B & L LAND & CATTLE CO INC C/O ROY BILBAO/PRESIDENT 3577 COW CREEK RD CAMBRIDGE, ID 83610 (208)257-3441
Current Owner	B & L LAND & CATTLE CO INC C/O CECIL BILBAO/VICE PRESIDENT 3597 COW CREEK RD CAMBRIDGE, ID 83610 (208)257-3583

Priority Date: 04/01/1964

Basis: Statutory Claim

Status: Active

<u>Source</u>	<u>Tributary</u>
COW CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	5.000 CFS	
	<u>Total Diversion:</u>	5.000 CFS	

Location of Point(s) of Diversion

COW CREEK	NW1/4NW1/4	Sec. 36, Twp 16N, Rge 03W, B.M.
WASHINGTON County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	02W	6					2.8	31.0			22.0								55.8
							L 4	L 5			L 6								
15N	03W	1	26.0	22.0	30.0	39.0	30.0			23.0					24.0				194.0
			L 1	L 2			L 3												

Total Acres: 249.8

Conditions of Approval:

1. X02 Stockwater use is for 200 head cattle, INCLUSIVE with irrigation.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4169 V1

3. L15 IDWR retains jurisdiction of this right to change, add or remove any requirement as determined to be appropriate.
4. N11 The quantity of water decreed for this water right is not a determination of historical beneficial use.
5. 42-113 Instream Use Permit not required during nonirrigation season for appropriation of water for the in-stream watering of livestock.
6. P27 See no.67-306, and 67-2126, for water rights irrigating adjoining property.
7. D08 This water right shall not provide more than .02 cubic feet per second per acre at any time.

Remarks:

Comments:

1. csaxton 9/20/2006 Letter

Comment: See Letter from Attorney general for explanation.

2. shemenway 6/26/2007 FIELD EXAM/RECOMMENDATIONS

Comment: FIELD INSPECTION CONDUCTED 5/22/07; CONFIRMED POU, ACRES IRRIGATED, AND POD.

3. shemenway 6/27/2007 LETTER & MAP

Comment: ADDITIONAL 76.8 ACRES X \$2/ACRE = \$153.60, BY 7/31/07, OR RECOMMEND 173.0 ACRES INSTEAD OF 249.8 ACRES.

SubCase:

SubCase Number: 67-4169

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date:

Attorney Assigned:

Adjudication Agent: Craig Saxton

Basis of Claim:

Date Filed: 2/2/2007 Objection Status: Active

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 67-4169

WATER RIGHT NUMBER: 67-4169

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	B & L LAND & CATTLE CO INC C/O ROY BILBAO/PRESIDENT 3577 COW CREEK RD CAMBRIDGE, ID 83610 (208)257-3441
Current Owner	B & L LAND & CATTLE CO INC C/O CECIL BILBAO/VICE PRESIDENT 3597 COW CREEK RD CAMBRIDGE, ID 83610 (208)257-3583

Priority Date: 04/01/1964

Basis: Statutory Claim

Status: Active

<u>Source</u>	<u>Tributary</u>
COW CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	2.660 CFS	
	<u>Total Diversion:</u>	3.460 CFS	

Location of Point(s) of Diversion

COW CREEK	NW1/4NW1/4	Sec. 36, Twp 16N, Rge 03W, B.M.
WASHINGTON County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	02W	6							25.0				15.0						40.0
15N	03W	1	12.0		32.0	33.0	25.0		18.0						13.0				133.0

Total Acres: 173

Conditions of Approval:

1. INCREASE IN WATER. 38 ACRES FROM THIS CLAIM TRANSFERRED FROM POU IN SECTION 36, T 16N, R 3W, NW 1/4 SW 1/4, SW 1/4 SW 1/4, AND SE 1/4 SW 1/4. CLAIM A67-306 TO BE IRRIGATED ON THE SAME LANDS.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 67-4169

Comments:

SubCase:

SubCase Number: 67-4169
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date:
Attorney Assigned:
Adjudication Agent: Craig Saxton
Basis of Claim:
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Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Amended Adjudication Notice of Claim Report 67-4169 V1

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*claim showing
acreage after
field inspection*

Priority Date: 04/01/1964
Basis: Statutory Claim
Status: Active

<u>Source</u>	<u>Tributary</u>
COW CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	5.000 CFS	
	<u>Total Diversion:</u>	5.000 CFS	

Location of Point(s) of Diversion

COW CREEK	NW1/4NW1/4	Sec. 36, Twp 16N, Rge 03W, B.M.
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								L 4	L 5				L 6						
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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4169 V1

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Comments:

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Comment: See Letter from Attorney general for explanation.

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Comment: FIELD INSPECTION CONDUCTED 5/22/07; CONFIRMED POU, ACRES IRRIGATED, AND POD.

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Comment: ADDITIONAL 76.8 ACRES X \$2/ACRE = \$153.60, BY 7/31/07, OR RECOMMEND 173.0 ACRES INSTEAD OF 249.8 ACRES.

SubCase:

SubCase Number: 67-4169

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date:

Attorney Assigned:

Adjudication Agent: Craig Saxton

Basis of Claim:

Date Filed: 2/2/2007 Objection Status: Active

Water Supply Bank:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT

Prior to Field Exam

- ☐ Copy of Claim, claim has been signed, sealed, and dated
- ☐ Check fees paid
- ☐ Well logs (if needed)
- ☐ Copy of topo or NAPP
- ☐ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
- ☒ Check POD & POU overlap, see below – include overlap
- ☒ Evidence of Priority – if none, talk with claimant

CLAIMANT INFORMATION – verify contact information

Claim No(s) A67-4169

Owner: B + L Land + Cattle Co. Inc. Phone No. (208) 257-3583

Current Address: % Cecil Bilbao/vice president 3597 Cow Creek Rd.
Cambridge, Id 83610

- ☐ No change NAME IS THE SAME
- ☐ NEW OWNER +/or Roy J. Bilbao/president
- ☐ No change Address
- ☐ NEW ADDRESS 3577 Cow Creek Rd, Cambridge, Id 83610
(208) 257-3441
- ☐ How long owned property? 1963

Accompanied by: Roy Bilbao + Monica Van Bussum

PRIORITY DATE

- ☒ No change – Complete evidence submitted or not necessary signed affidavit received 5/22/07
- ☐ Incomplete – Claimant should be asked when water was first used and submit proof of date.
- ☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: 4/1/1964

(If priority date, based on your exam, seems questionable, explain below.)

purchased property in 1963, began
use at POD 4/1/1964

Source: Cow Creek Tributary to Weiser River

- ☒ No Change – SAME SOURCE
- ☐ Source found is different than claimed: _____

POINT OF DIVERSION

- ☒ No change
- ☐ POD found is different than claimed: _____
- ☐ If different, when did POD change? _____

same place it's always been;
said put in concrete headgate/weir
15-20 years ago

Bilboa 5/24/07
changed to
Bilbao w/Cecil
+ B+L Land
— need to add
Roy J. Bilbao
as president
on contact list
+ Cecil as
Vice president

per affidavit
added
Roy on
as another
current
owner with
B+L Land
+ Cattle Co.

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID
									A0002115 2289825° 15015 71
									N44°40.904'
									W 116°39.175'

Description of diverting works

Tag A0002115

2 pictures, GPS point taken approx 25-30 yds east of headgate

OVERLAP REVIEW

Other water rights with the same point of diversion: None

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain:

$$249.8 \text{ acres} \times 0.02 \text{ cfs} = \boxed{4.996 \text{ cfs}} = 5.00 \text{ cfs}$$

WATER USES

☒ No change

☐ Different Uses

Use Irrigation From 3/15 To 10/31 Amount 5.00 CFS 999.2 AFA 231 days confirmed w/season of use on areview

Use _____ From _____ To _____ Amount _____ CFS _____ AFA

Use _____ From _____ To _____ Amount _____ CFS _____ AFA

$$V_{ir} = 249.8 \times 4.0 = 999.2$$

low flow

TOTAL VOLUME - Groundwater only

N/A

- ☐ Incomplete on claim, the total is, Amount _____ CFS _____ AFA
- ☐ Changes found, the new total is, Amount _____ CFS _____ AFA
- ☐ More than 1" per Acre? Yes _____ (claimant must complete excess flow sheet)

$$V_{dr} = 5.33 \times 231 \times 1983 = 2442.1$$

$$\boxed{V = 999.2}$$

NON-IRRIGATION USES:

☐ No change

☐ Changes Exam found: Domestic # of homes _____ Stock # 200 head cattle

Types _____ Additional comments: inclusive w/irrigation

PLACE OF USE:

☐ No Change

☐ Changes shown below:

Have been irrigating this same area since they purchased the property (increase in acres) more than they thought

irrigation
area drawn on topo map by
Ray & Cecil; acreage will be determined
on ArcView (done)

Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Overlap with other water rights: None

Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain:
—

Delivery System Narrative:

72" wide
Low flow mark 5"
High flow mark 12"
Concrete headgate in stream directs all of Cow Creek. Claimant does not use headgate, but provides good location for measurement since, per claimant communication, they divert all of Cow Creek until it runs dry & there is no more water. Claimant says there are 10-15 ditches off of Cow Creek & they knock holes in the ditches as they need water.

high flow
low flow
72" 12" 5"
dirt ditches, switch back & forth, dig out side of ditch to gravity flow

Complete gravity flow system

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size

FLOW MEASUREMENTS: See delivery system narrative

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

Dirt Ditches switch back & forth across hillside, with flow (gravity flow by making holes in walls of ditch) traveling basically north to south, with some areas west to east, & east to west following slope of hillside.

Congs

Concrete headgate/weir installed 15-20 years ago.

Other WRL 67-503, & 67-2132 with POD Rock Creek, do not overlap with POU. 67-306 uses the same ditches as 67-4169 in section 36, to travel down to section 1 & 6.
(* Need comment to limit 0.02 cfs/acre).

Directions: 1st, take Hwy 95/Payette off ramp,
thru Weiser to Cambridge, 1st & follow
Hwy 71 towards Boronia, (go about 1 1/4 mile,
turn Rt. Rush Creek Rd) Rt Cow Creek Rd,
at 3597 Cow Creek Rd mail box, turn right & go
up the dirt road a couple miles.

AFTER EXAM THE FILE SHOULD CONTAIN:

- ☒ Completed claim checklist
- ☒ Photographs of POD's and POU
- ☒ GPS readings
- ☒ Completed map and or GIS layout showing POD's and POU

DATE EXAM CONDUCTED:

5/29/07

FIELD EXAMINER:

Judy Hemmery

An aerial photograph of a landscape, likely a river valley or floodplain, with various land parcels and vegetation. Handwritten in black ink in the upper left quadrant is the text "State of Id. Property". Several blue 'X' marks are placed on the map, indicating specific points of interest. A large, irregular black line outlines a significant portion of the central and lower-left areas of the image. A small red building is visible near the center, and a small green rectangular box highlights an area near it. The terrain shows a mix of brownish, bare earth and green, vegetated areas, with a winding river or stream visible on the left side.

6/2/2007 5:00 PM 967 100% completed ... 67-4169

25

parked
here

POD
approx
location

36

approx
ditch

pond
creek

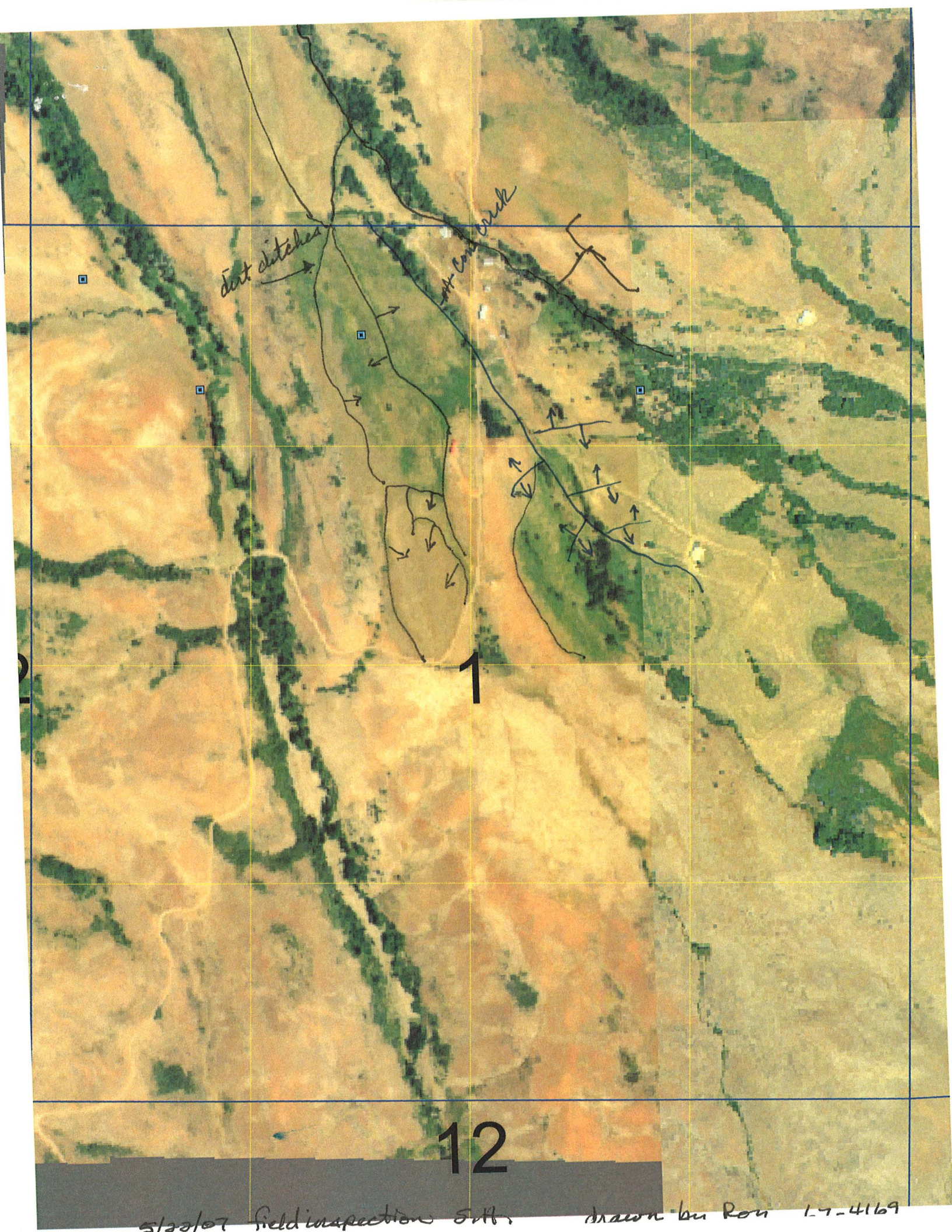
dirt
ditch

5/27/07 field inspection

Silt.

Arroyo L. R.

17-411A



dirt ditches

Silt Creek

1

12

Section 1:

53.286

.01

26.479

116.123

195.898 acres

Section 6:

1.613

54.267

55.88 acres

0.000

0.001

26.479

1.613

53.286

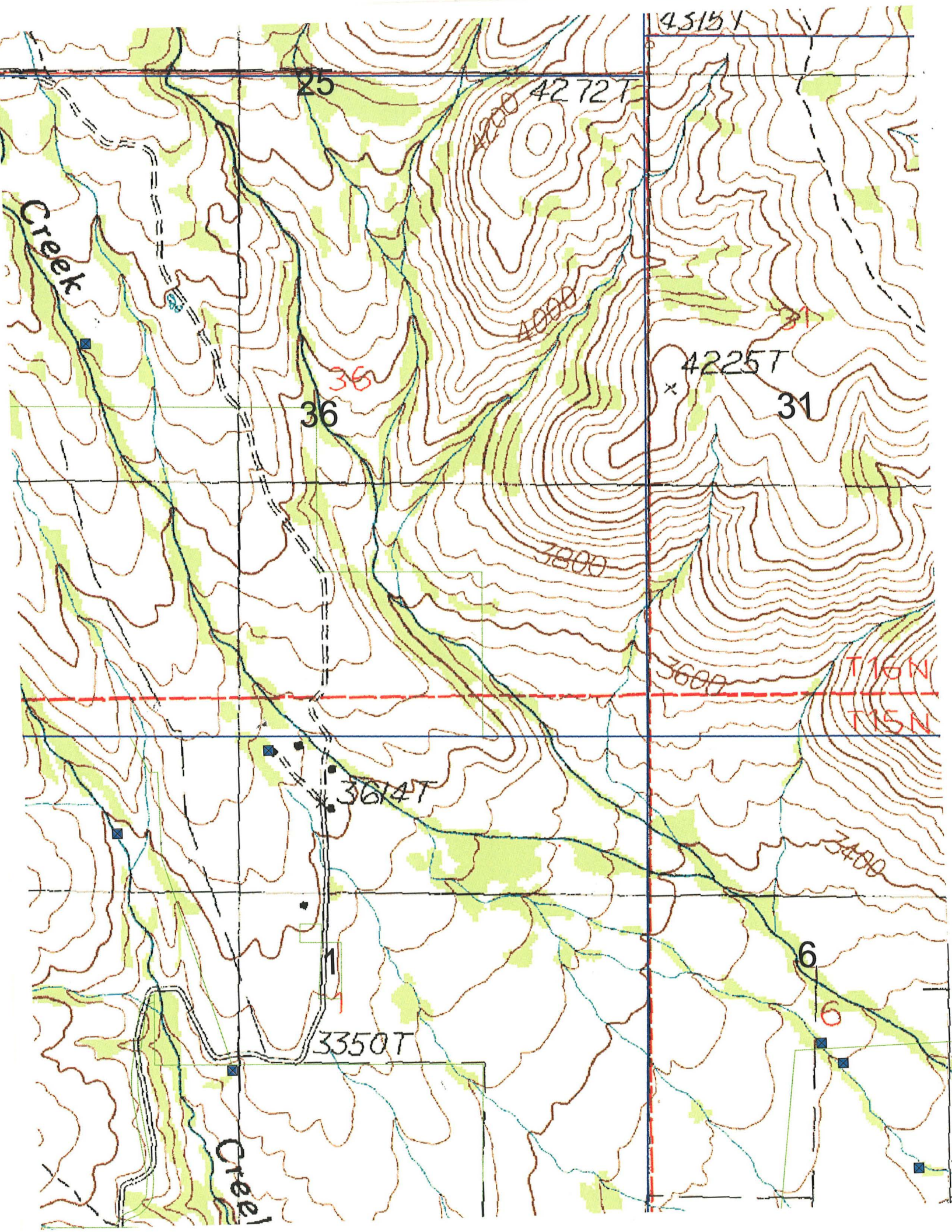
116.123

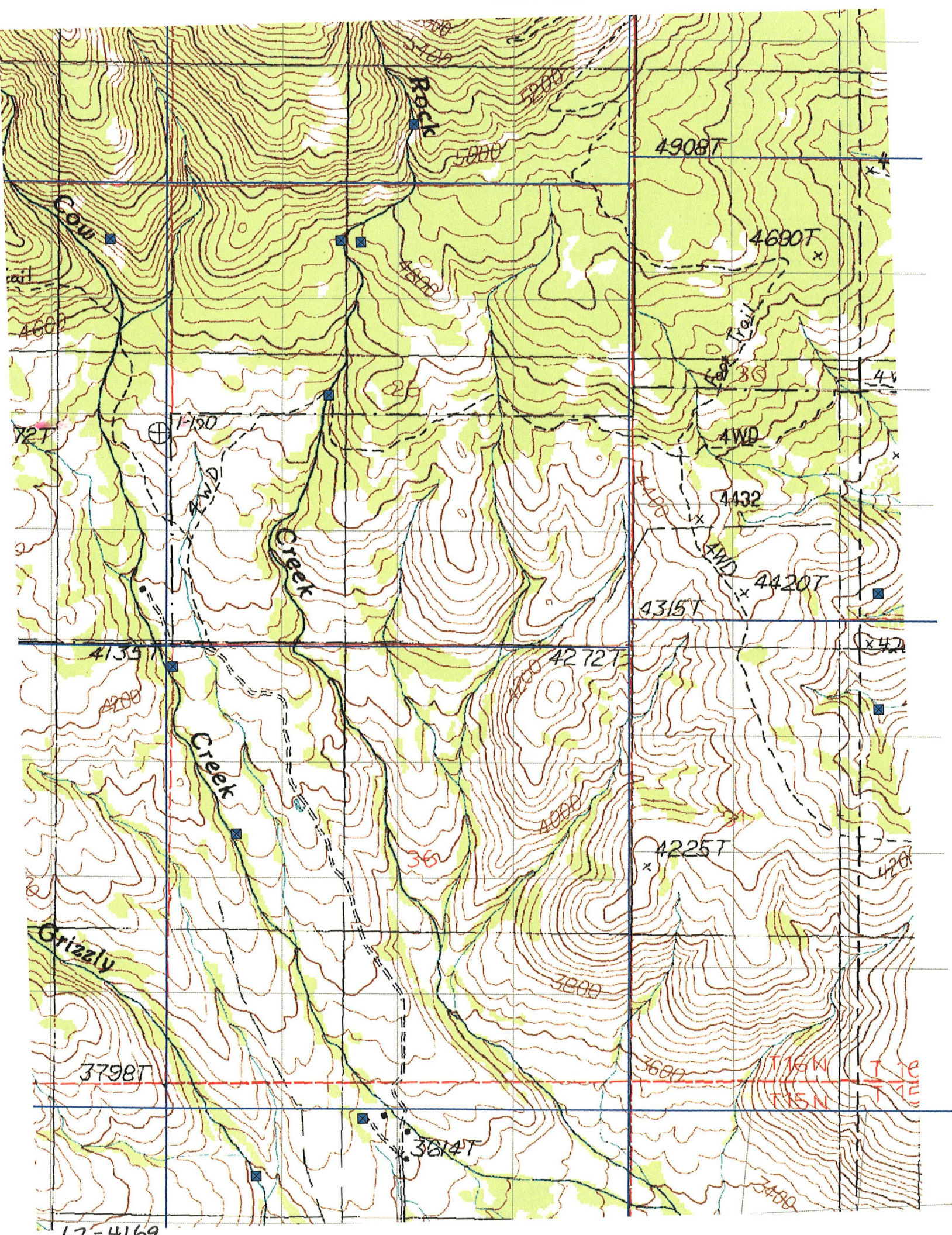
54.267

6/26/07 15 16.172 scale

S. Hemenway

67-4169 A+1 Road + Cattle







POD

05/22/2007



POD
concrete
weir
72" wide
5" low flow
412" high
water
mark

05/22/2007

A67-04169 B+L Land + Cattle Co., Inc
5/22/2007 Sittenerway



A67-04169 B+L Land & Cattle Co., Inc.
5/22/2007 S. Hemminger



POU

POU

POU

67-4169

05/22/2007



POU

67-4169

Dirt
ditches
that
traverse
back &
forth
down &
across
hillside

05/22/2007

A67-04169 B&L Land & Cattle Co., Inc.
5/22/2007 S. Hemmenway



POU
67-4169



POU
67-4169

A67-04169 B+L Land & Cattle Co., Inc.
5/22/2007 S. Hemenway



POU
67-4169

dirt
ditches

05/22/2007



POU
67-4169

dirt
ditches

05/22/2007

A67-04169 B+L Land + Cattle Co., Inc.
5/22/2007 S. Hemmaway



A 67-04169 B + L Land + Cattle Co., Inc.
5/22/2007 S. Hemmway

No Overlaps

[illegible]

IN THE MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO. (S))

67-416A)

AFFIDAVIT

State of Idaho)
County of Washington)

Cecil Bilbao being first duly sworn,

deposes and says: _____

- Purchased Ranch 1963
Used ^{Cow Creek} Since That Time Forward To date
put in headgate 15-20 years ago. Divert
water to dirt ditches, open up ditches
as point of use to flood irrigate. Started
irrigating land 4/1/1964.
- Requested Cecil be listed as vice president, &
Roy J. Bilbao 3577 Cow Creek Rd,
Cambridge, Id 83610 (208) 257-3441
be listed as president,
C. Bilbao



Sandra C. Hemenway
(Signature)

Subscribed and sworn to before me this
day 22th of May, 192007.

filing # 49791
(Notary Public)

Residing at IDWR/ State Office

My Commission Expires April 19, 2013.

Witnesses: Monica VanBussan & Roy J. Bilbao.

SCANNED

JUN 7 7 2007

Conversation Memorandum

Date: January 22, 2007

To: File 67-2010, 67-2096, and 67-4169

From: Craig L. Saxton

Re: Phone Call from Cecil Bilboa regarding disallowed recommendations.

This morning I received a call from Cecil Bilboa. He initially was calling to ask why 67-2096 was recommended as forfeited. I saw that Vicky Music had worked on the file and called her to get the details. She told me that the 1975, 1987, 2004, and 2006 photography didn't show signs of irrigation and also that there were notes in the file that when speaking with the claimant, he didn't know where the POD or POU was located. Thus it was recommended as forfeited in 1975 as that was the earliest photography supporting non-use of the right.

I called Mr. Bilboa back and explained this to him and he disagreed. I told him that the Tax Lot data showed the property was owned by Monte Pearce. He did not think this was right and asked what the claimed source was. I told him Pine Creek and he hesitated as if we weren't talking about the same water right. I told him that I thought we might be talking about other water rights and asked him if he had some other numbers that could represent the water right he was concerned about.

The next water right number he gave me was 67-2010. It was disallowed and recommended as 67-503. I explained that 67-2010 was superseded and that 67-503 was now the new number. He seemed satisfied with that and confirmed that other water rights that were disallowed with the same recommendation were the same situation. I said that they probably were. He didn't however give me any other numbers to check and confirm that.

Then we got to 67-4169. I did the recommendation on this and disallowed the right because we had no EOP and they wouldn't allow us on the property to conduct a field exam. I forgot to mention that there was no Priority evidence, but I told him that he wasn't allowed access and he said it was because we wanted to be there right that second and he didn't have anyone to show us around. At this time I told him that the conclusion of this is that if he disagrees with the recommendation he needs to file an objection. I told him he should have an objection form in the mailing that would tell him where to

send it and what to do. He disagreed so I mailed him a copy of the objection form and instructions.

We did not go back to the initial question of if 67-2069 was a valid water right.

At the time of the conversation I had not looked into the file. After the phone call I went through the file and found that our field examiner (Presumably Misty Mount) was told not to conduct a field exam by Mr. Bilboa. After hearing about this, I had called to make sure there was no mis-understanding and was not able to speak to Mr. Bilboa, but was refused access by ranch foreman Ray Tillis. Finally, Chris Bromely from the Attorney Generals office sent a letter to Mr. Bilboa outlining our attempts to contact him to conduct a field exam and that the claim would be disallowed if we could not verify the elements of the claim. No response was received after that point.



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

August 23, 2006

B&L Land & Cattle Co., Inc.
C/O Cecil Bilboa
3597 Cow Creek Road
Cambridge, ID 83610

Re: Claim to Water Right No. 67-4169

Dear Mr. Bilboa:

As you are aware, the Idaho Department of Water Resources (IDWR) is presently in the process of reviewing Snake River Basin Adjudication (SRBA) claims for water rights filed in Basin 67. The SRBA was commenced nearly twenty years ago in order to inventory water rights throughout most of Idaho. Since its commencement, IDWR has been vested with the duty to review each claim filed in the SRBA and, based upon analysis of each claim, report its recommendation to the SRBA District Court for decree. In the event IDWR cannot verify each element of the claim, the claim may be recommended in part, or recommended disallowed.

On January 31, 1977, approximately ten years prior to the commencement of the SRBA, you filed what is known as a "statutory claim," based on Idaho Code § 42-225(a), for water right no. 67-4169. According to the form you filed on January 31, 1977, "Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. *The filing of this claim does not confirm the water right but will serve for information purposes only.* It may, however, become the basis for future adjudication of the water right by the Court." Emphasis added. Because the filing of a statutory claim was for informational purposes only, IDWR did not investigate and verify the elements of the

claim. Furthermore, the filing of the statutory claim did not result in an adjudication of its elements by a court.

On July 12, 1989, after the commencement of the SRBA, you filed an SRBA claim for water right no. 67-4169. The elements claimed in the SRBA claim are substantially similar to the elements in your statutory claim. The SRBA claim stated that was based on the statutory claim, which you filed based upon beneficial use, not decree or license.

Unlike the elements to claims to water rights derived from decree or license, which have been verified by a court or IDWR, the elements to claims to water rights based on beneficial use or derived from previously filed statutory claims have never been reviewed. Therefore, it is necessary for IDWR to review and examine each SRBA claim that is based on beneficial use before it can recommend it to the SRBA District Court for decree.

On August 21, 2006, an IDWR field examiner contacted you to request an appointment so she could conduct a field examination in order to verify the elements of SRBA claim no. 67-4169. She, however, was informed that a field exam was not necessary and that you did not wish to schedule a subsequent appointment.

On August 21, 2006, Craig L. Saxton, Senior Water Resource Agent, Adjudication Bureau, called (208) 257-3583, in order to explain the need for a field exam. Mr. Saxton asked to speak with you, but was told that you were not presently available, but would be at 8:00 a.m. the next morning.

Mr. Saxton called back the following morning at approximately 8:00 a.m. and spoke with foreman Ray Tillis. Mr. Tillis informed Mr. Saxton that you were out of town until October and would not be available to talk about the issue until that time.

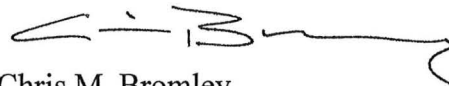
Mr. Saxton explained to Mr. Tillis the need for a field exam as SRBA claim no. 67-4169 is for water based on beneficial use and must be investigated and verified by IDWR in order to be recommended to the SRBA District Court. Mr. Saxton also discussed with Mr. Tillis, in general, how the elements of the SRBA claim would be verified. Mr. Tillis expressed to Mr. Saxton that conducting a field exam would take a lot of time. Mr. Saxton told Mr. Tillis if IDWR had permission to go onto the property and was pointed in the direction of the point of diversion, then IDWR's field examiners could conduct the exam without assistance from ranch personnel. Mr. Tillis responded by stating that he did not have the authority to allow IDWR access to the property.

If the elements of SRBA claim no. 67-4169 cannot be verified by IDWR, the Department will have no choice but to recommend SRBA claim no. 67-4169 as disallowed to the SRBA District Court. If your claim is recommended disallowed to the SRBA District

Court, you are entitled to object to IDWR's recommendation; however, please be aware that once IDWR files its recommendation, the recommendation is given presumptive legal weight of being correct. Thus, the burden will fall upon you to prove that IDWR's recommendation was erroneous. It is therefore to everyone's advantage to ensure that IDWR has the opportunity to investigate the point of diversion before issuing its recommendation to the SRBA District Court on claim no. 67-4169.

If you wish to pursue this claim, please contact Craig L. Saxton no later than **September 11, 2006** in order to set up a time to conduct a field exam. At that time, evidence supporting the claimed priority date of April 1, 1964 will also need to be submitted.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'C. Bromley', with a long horizontal flourish extending to the right.

Chris M. Bromley
Deputy Attorney General

c: Craig L. Saxton

B + L Land + Cattle Co. WA# 4169 257

POD + POU

POD possible more pods than 1?

Priority Date

Date	2.66	}	}
Classed	3.46		
Original	3.00		

2.66
94
—
3.10

Stock Water

Cecil Bilboa

phone #

(208) 257-3583

Overlap w/

2126 - 49 ac - no ov.

2031 - SE NW - Sect. 6 POD
20 AC NE SW Sec. 6 } N/A

INR/DOM

306

- 37.6 ac - no o.v. w/ 4169 / is N of prop.

503 fr. Rock Cr. - no ov.

only have 1987 photos

* NEED COP

* says he has already verified
all his claims

* says all his rights have been
deeded ~

* is very stubborn

* i did not set up an acct.

67-4169 - claiming 173 Acres

Verify Acres in sa app.
rate is less than 1"

locate POD off Can Cr.

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

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

CIVIL CASE NUMBER: 39576

RECEIVED
OCT 16 1989

Ident. Number: A67-04169
Date Received: 7/12/1989
Receipt No: W000280
Received By: _____

Department of Water Resources
Western Regional Office
**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: B & L LAND & CATTLE CO. INC.
Address: C/O CECIL BILBOA
RT. 1 BOX 212
CAMBRIDGE, ID 83610

2. Date of Priority: APR 01, 1964

3. Source: COW CREEK Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
16N	03W	36	NW	NW			WASHINGTON

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	2.660		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
15N	02W	6	SW	NW		IRR	25.0
			NW	SW		IRR	15.0
						Section Acres	40.0

A67-04169

Page 1

Date: 09/14/89

MICROFILMED

OCT 02 1992

SCANNED

APR 08 2004

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
15N	03W	1	NE		NE		IRR	12.0
			SW		NE		IRR	32.0
			SE		NE		IRR	33.0
			NE		NW		IRR	25.0
			SW		NW		IRR	18.0
			NE		SE		IRR	13.0
							Section Acres	133.0
							Total Acres	173.0

11. Place of use in counties: WASHINGTON

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

13. Other Water Rights Used:
67-2031, 67-2126, 67-0306, 67-0503.

14. Remarks:
INCREASE IN WATER. 38 ACRES FROM THIS CLAIM TRANSFERRED FROM POU
IN SECTION 36, T 16N, R 3W, NW 1/4 SW 1/4, SW 1/4 SW 1/4, AND
SE 1/4 SW 1/4. CLAIM A67-306 TO BE IRRIGATED ON THE SAME LANDS.

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): Bol Lind & Co/H/Co Date: 10/5/89
Carl Bolter Date: 10/5/89

State of Idaho)
County of WASHINGTON) SS.

Subscribed and sworn (or affirmed) before me this 5TH day
of OCTOBER 19 89 B. G. Soules
Notary Public

Seal

Residing at Cambridge
My Commission Expires 8-21-91

AG 7-4169 Cont'd

MICROFILMED
OCT 02 1952

