

COPY

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AUG 12 2008

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

AUG 11 2008

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

Clerk

Deputy Clerk

In Re SRBA

Subcase Nos. 67-10637

Case No. 39576

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:

Lee F. Cole

OBJECTOR:

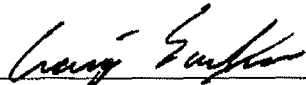
State of Idaho on behalf of the Department
of Lands

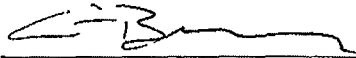
Lee F. Cole 7-31-08
Lee F. Cole Date
Claimant/*Pro Se*

David Stanish 7/23/08
David Stanish Date
Attorney for Objector

STANDARD FORM 5 - 67-10637

IDWR Concurrence:

 7/24/08
Craig Saxton Date
IDWR Agent

 7/25/08
Chris M. Bromley Date
Deputy Attorney General

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

RIGHT NUMBER: 67-10637

NAME AND ADDRESS:

DORA V COLE
2565 COUNCIL CUPRUM RD
COUNCIL ID 83612-5009

LEE F COLE
2565 COUNCIL CUPRUM RD
COUNCIL ID 83612

SOURCE: Source:
LAKEY CREEK

Tributary:
HORNET CREEK

QUANTITY: 0.450 CFS
0.000 AFY

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 04/04/1901

POINT OF DIVERSION:

T17N R02W S16 SESE
Within ADAMS County

PURPOSE AND
PERIOD OF USE:

Purpose of use	Period of use:	Quantity:
IRRIGATION	03/15 11/15	0.400 CFS
STOCKWATER	01/01 12/31	0.050 CFS

PLACE OF USE: IRRIGATION within ADAMS County

T17N R02W S15 NWSW 2.5
T17N R02W S15 SWSW 16.0
T17N R02W S15 SESW 1.5

~~T17N R02W S15 NWSW 0.6~~
~~T17N R02W S15 SWSW 13.0~~
~~T17N R02W S16 NESE 0.4~~
~~T17N R02W S16 SESE 6.0~~

CB

DS

CS

STOCKWATER Same As IRRIGATION

20 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.

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

Access to the point of diversion for this water right is governed by a private agreement executed by the Idaho Department of Lands and Dora and Lee Cole.

DS

L.C.

CS

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 150 range cattle.

CERTIFICATE OF MAILING

I certify that on August 7, 2008, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Lee F. Cole
2565 Council Cuprum Rd.
Council, Idaho 83612-5009

State of Idaho
Department of Lands
954 W. Jefferson
P.O. Box 83720
Boise, Idaho 83720-0050

United States Department of Justice
Environment & natural Resource Division
550 West Fort Street, MSC 033
Boise, Idaho 83724

Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

IDWR Repository
P.O. Box 83720
Boise, ID 83720-0098



Signature of person or attorney mailing the form

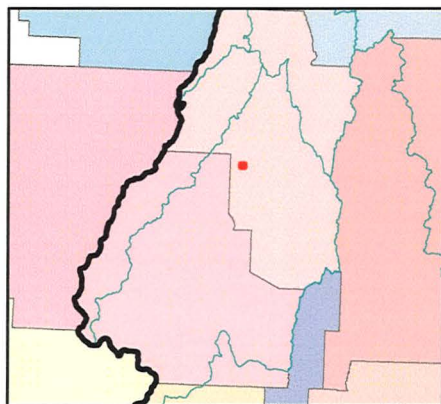


Idaho Department of Water Resources

SRBA Recommendation
67-10637
(IRRIGATION)

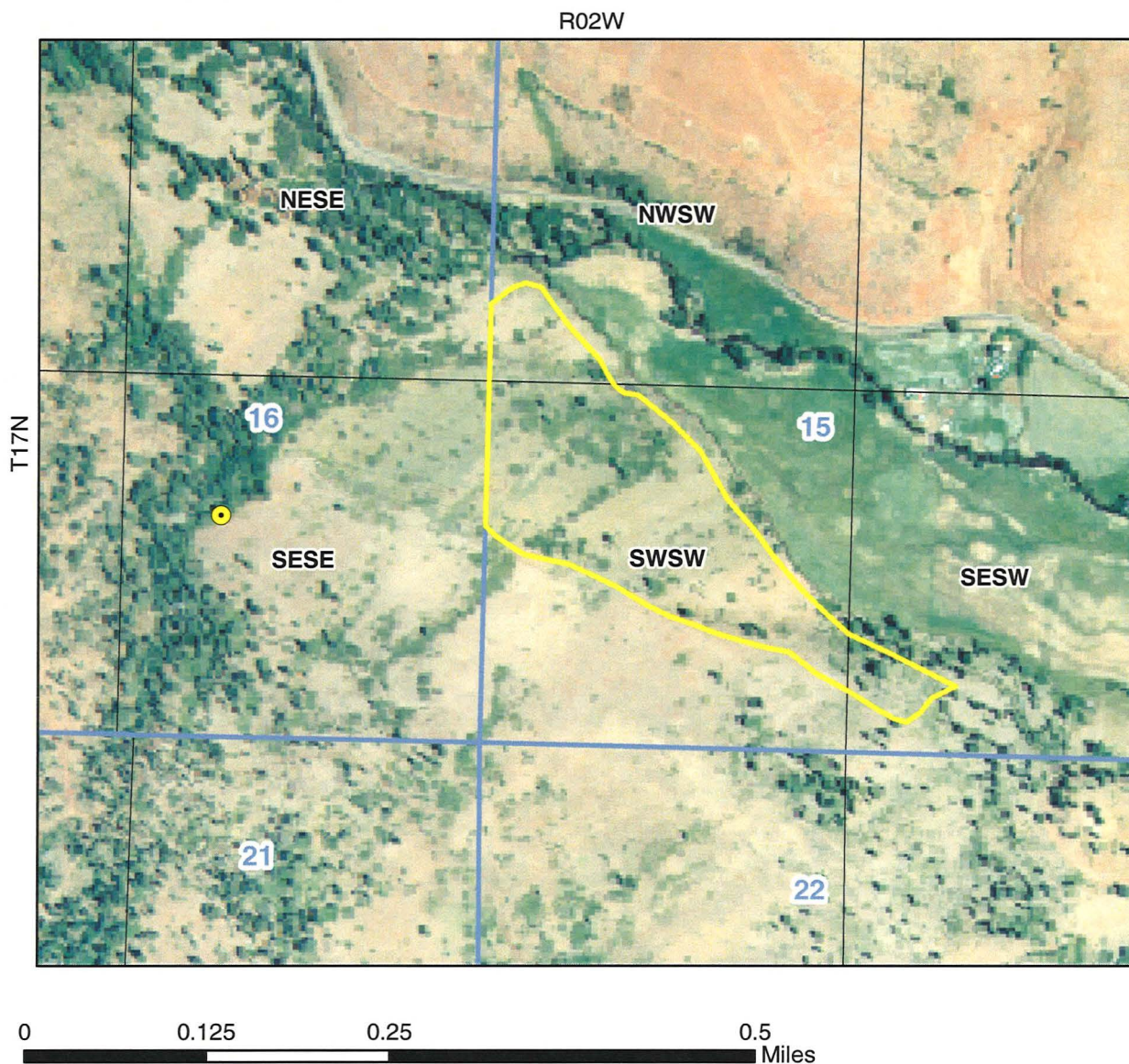
Legend

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



Adams County
IDWR Basin 67

Prepared by Craig Saxton
On August 05, 2008
1987/88 Aerial Photography





STATE OF IDAHO
DEPARTMENT OF LANDS
TEMPORARY PERMIT

NO. TP-50-0620-08

Permission is hereby granted to Lee Cole, of 2565 Council Cuprum Road, Council, ID 83612 to maintain a water delivery system (stockwater). On and across the following described lands as shown on the map attached and made a part hereof.

SESE Section 16, Township 17 North Range 2 West

ENDOWMENT: PS

Acc Code: Industrial

This Permit is subject to the following terms and conditions:

1. This authorization is effective upon signature by the area supervisor and upon payment of the required fee by the Permittee.
2. This permit is granted in consideration of the receipt of \$100.00. This fee will be credited toward any additional fees which may arise as a result of the ongoing easement acquisition process between the State of Idaho and Lee Cole.
3. The Permittee shall indemnify and hold harmless the State of Idaho and its representatives against and from any and all demands, claims or liabilities of every nature whatsoever, arising directly or indirectly from or in any way connected with the use authorized under this permit.
4. This permit may be cancelled after written notice to the Permittee of non-compliance with the terms herein and failure of the Permittee to correct noted non-compliance.
5. This permit is non-exclusive to the Permittee, except that other uses will not be designed to restrict the Permittee in the exercise of this permit.
6. This permit may be assigned with the approval of the area supervisor. If approved, the Permittee will give written notice of the name and address of the assignee to the supervisor of the Area Office, Department of Lands.
7. The Permittee shall exercise every reasonable effort to protect the forage and watershed resources.

8. The Permittee will comply with all federal, state and local laws and with all rules and regulations of the State Board of Land Commissioners pertaining to forest and watershed protection and the Stream Channel Protection Act as designated in Chapter 38, Title 42 of the Idaho Code.
9. The Permittee will be required to maintain and leave the permitted area in a clean and tidy condition.
10. It is understood and agreed that the Permittee shall take measures to control noxious weeds within the permitted area in accordance with Title 22, Chapter 24, Idaho Code. The Permittee shall cooperate with any state or other agency authorized to undertake programs for control or eradication of noxious weeds. Failure to comply would be justification for the State to terminate the permit.

This permit shall expire on December 31st, 2012, or upon acquisition of a permanent easement from the State of Idaho, but may be extended for an additional period of up to five (5) years upon request of the Permittee and at the discretion of the area supervisor. The permit will be subject to such terms and conditions as may be imposed by the area supervisor.

Issued this 23rd day of June, 2008.

Lee Cole
PERMITTEE

owner
Title

6-20-08
Date

Endowment: PS

Sheldon W. Keafer
SHELDON W. KEAFER
Area Supervisor
Payette Lakes Area

COPY

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

In Re SRBA)

Case No. 39576)

A. Subcase Number: 67-10637

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho,
Department of Lands
Address: 954 W. Jefferson
P. O. Box 83720
Boise, Idaho 83720-0050
Daytime Phone: (208) 334-0200

Name and Address of Attorney, if any:

Attorney Name: LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID I. STANISH (ISB # 7310)
Deputy Attorney General
Attorney Address: Office of the Attorney General
Joe R. Williams Bldg.
700 W. State St., 2nd Floor
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Lee F Cole
Address: 2565 Council Cuprum Rd
Council, ID 83612

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☒ **Name and Address**
Should be: State of Idaho, Department of Lands, 954 West Jefferson St., P. O. Box 8372, Boise, ID 83720-0050 should be added as a joint owner of the water right for the point of diversion and for that portion of the place of use owned by the State of Idaho, Department of Lands, hereinafter "IDL," which the claimant has under lease.
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☒ **Point of Diversion**
Should be: IDL owns the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of section 16, T17N, R02W, B.M.. The claimant has no authorization to claim these lands as a point of diversion for this water right. These lands should either be deleted from this water right or be included in a water right under joint ownership with IDL.
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: The IDL owns the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of section 16, T17N, R02W, B.M.. The claimant has no authorization to claim these lands as a portion of its place of use for this water right. These lands

should either be deleted from this water right or be included in a water right under joint ownership with IDL.

11. I object because:

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

The claimant has no authorization to claim these state lands as a point of diversion or place of use of this water right. On June 20, 1893, State of Idaho acquired the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of section 16, T17N, R02W, B.M.. The priority date claimed for this water right is April 4, 1901. On November 19, 2003, the claimant and the State of Idaho, State Board of Land Commissioners, executed State of Idaho State Land Lease No. G-5170 ("Lease No. G-5170"), which authorized the following uses: "grazing 80.00 acres containing 15.00 AUMs, . . . [and] 0 acres of irrigated land." Paragraph 9.1 of Lease No. G-5170, Attachment B, states as follows:

Water Rights. No water rights are included in this Lease. The establishment of any new water rights during the term of this Lease shall be by and for Lessor and no claim thereto shall be made by Lessee. Such water rights shall attach to and become appurtenant to the leased land

In accordance with paragraph 9.1, IDL proposes that the water right be split. The first water right that includes the state lands should have joint ownership under the claimant and IDL. A remark should be included indicating that ownership is subject to a private agreement executed between the claimant and IDL. The second water right that includes only the private land should have the claimant as the sole owner. Because the sole point of diversion under this second water right would be located on state lands, a remark should be included indicating that the water right is subject to a private agreement executed between the claimant and IDL.

Attached hereto is a map that shows the land owned by IDL and the water right claimed by the claimant.

F.

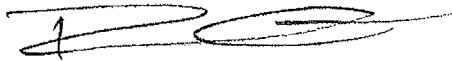
VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

DAVID I. STANISH, Deputy Attorney General, duly sworn, upon oath, deposes and says:

That the State of Idaho, Department of Lands, in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, Department of Lands, which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

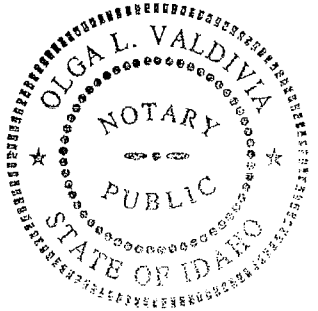
LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID I. STANISH
Deputy Attorney General



By Attorney signing in representative capacity

Subscribed and sworn to before me on: August 21, 2007

(Insert Date)



Notary Public for IDAHO

Residing at: BOISE, ID

My commission expires: 8/21/07

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on August 21, 2007 I caused the original and the copies of this objection, including all attachments, to be served on the following persons by the method designated:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, Idaho 83303
FEDERAL EXPRESS
2. One copy to the owner of the water right at the following address:
Lee F Cole
2565 Council Cuprum Rd
Council, ID 83612
U.S. MAIL
3. Copies to:
State of Idaho,
Department of Lands
954 W. Jefferson
P. O. Box 83720
Boise, ID 83720-0050
STATEHOUSE MAIL

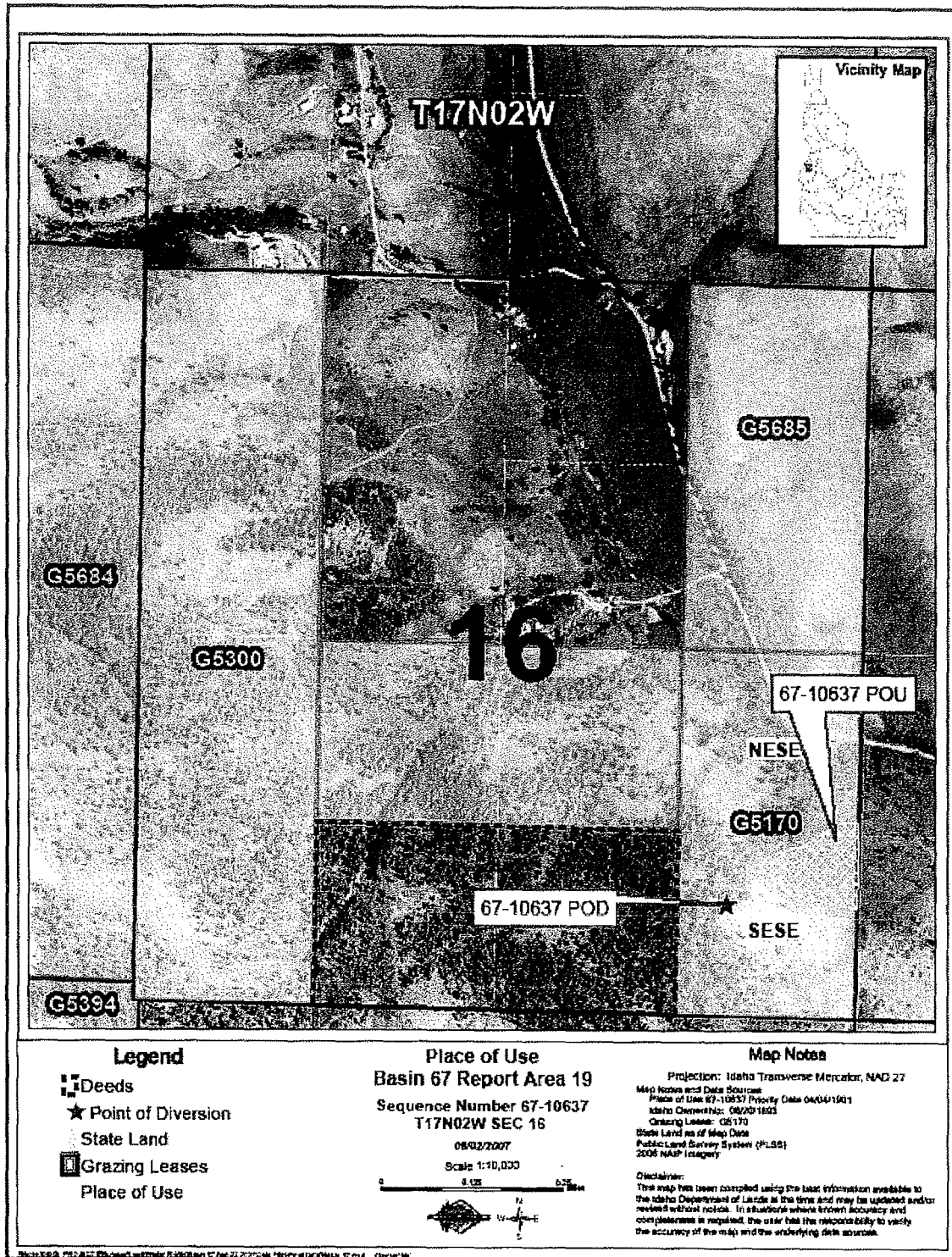
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098
STATEHOUSE MAIL

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724
U.S. MAIL

Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449
(not applicable)



Signature of Objector or attorney
Mailing on Objector's behalf





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

July 28, 2008

Mr. Lee F. Cole
2565 Council Cuprum Rd.
Council, Idaho 83612-5009

Re: Subcase No. 67-10637

Dear Mr. Cole:

Enclosed please find the original document entitled "Standard Form 5 – Stipulated Elements of a Water Right" (commonly referred to as SF 5) for the above referenced subcase no. for Basin 67.

Please review the new recommendation which is attached to the original SF 5 document. If all the information is correct, please sign and date the first page of the original and initial the page entitled "Recommendation of Water Rights Acquired Under State Law." After you have signed and initialed the original, **please return the documents to our office in the self addressed stamped envelope** provided for your convenience. Our office will gather the remaining signatures and make sure the document is subsequently filed with the Court.

If you have any questions regarding this process or the enclosed documents please do not hesitate to call me at 287-4814.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink that reads "Renea Ridgeway".

Renea Ridgeway
Paralegal, IDWR

Enclosures

Saxton, Craig

From: Saxton, Craig
Sent: Wednesday, December 12, 2007 10:15 AM
To: 'david.stanish@ag.idaho.gov'
Subject: RE: 67-10637 Objection

Attachments: 67-10637 obj (12-12-07).jpg; Map Submitted by Cole.pdf



67-10637 obj (12-12-07).jpg (1...
Map Submitted by Cole.pdf (993...

Dear Mr. Stanish,

Mr. Cole responded to my information request and returned a map in which he drew in the place of use that is irrigated from Lakey Creek. He indicated that the State of Idaho land is not purposely irrigated. Attached is a JPG that shows the amended POU I would propose to recommend under 67-10637.

I have not shown this to Mr. Cole at this point and it is slightly different than what was shown on the map that Mr. Cole sent me. So I am in not saying that Mr. Cole agrees with this POU.

I have attached a scanned copy of the map that Mr. Cole sent me. It didn't scan very well, but hopefully it is clear enough.

Let me know what you think.

Sincerely,

Craig

-----Original Message-----

From: Saxton, Craig
Sent: Monday, December 03, 2007 1:41 PM
To: 'david.stanish@ag.idaho.gov'
Subject: 67-10637 Objection

Dear Mr. Stanish,

Per our conversation, I am attaching the letter I sent Mr. Cole regarding the POU for 67-10637.

Please feel free to contact me if you have questions.

Thanks,

Craig L. Saxton
Water Right Supervisor
Adjudication Bureau
craig.saxton@idwr.idaho.gov



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.
Director

December 20, 2007

LEE F COLE
DORA V COLE
2565 COUNCIL CUPRUM RD
COUNCIL ID 83612-2009

Subject: Objection to Snake River Basin Adjudication 67-10637

Dear Mr. and Ms. Cole,

Thanks for sending in the hand drawing of the POU on the map I requested. I took a look at it and am sending you a new map of what appears to be the irrigated place of use.

It is slightly different than what you sent in as I did not include some of the ground in the SESW quarter. I left this piece off because it looks like that is a high point where the water goes around the ground and that the map provided by one of our field examiners that had been to the property left that piece off (enclosed). So I was hoping you could take a look at the new map that is enclosed and let me know if that looks like the ground you irrigate.

Take a look at it and drop me a line and let me know what you think. Unfortunately, I will be out of the office until Monday, January 14th, 2008.

If you have immediate questions or would like to verify the accuracy or in-accuracy of the map, please contact Monica Van Bussum at 208-287-4907. She will be familiar with your file and should be able to answer any of your questions.

Respectfully submitted,

Craig L. Saxton
Water Right Supervisor
Adjudication Bureau
(208)-287-4916

Enclosure(s)

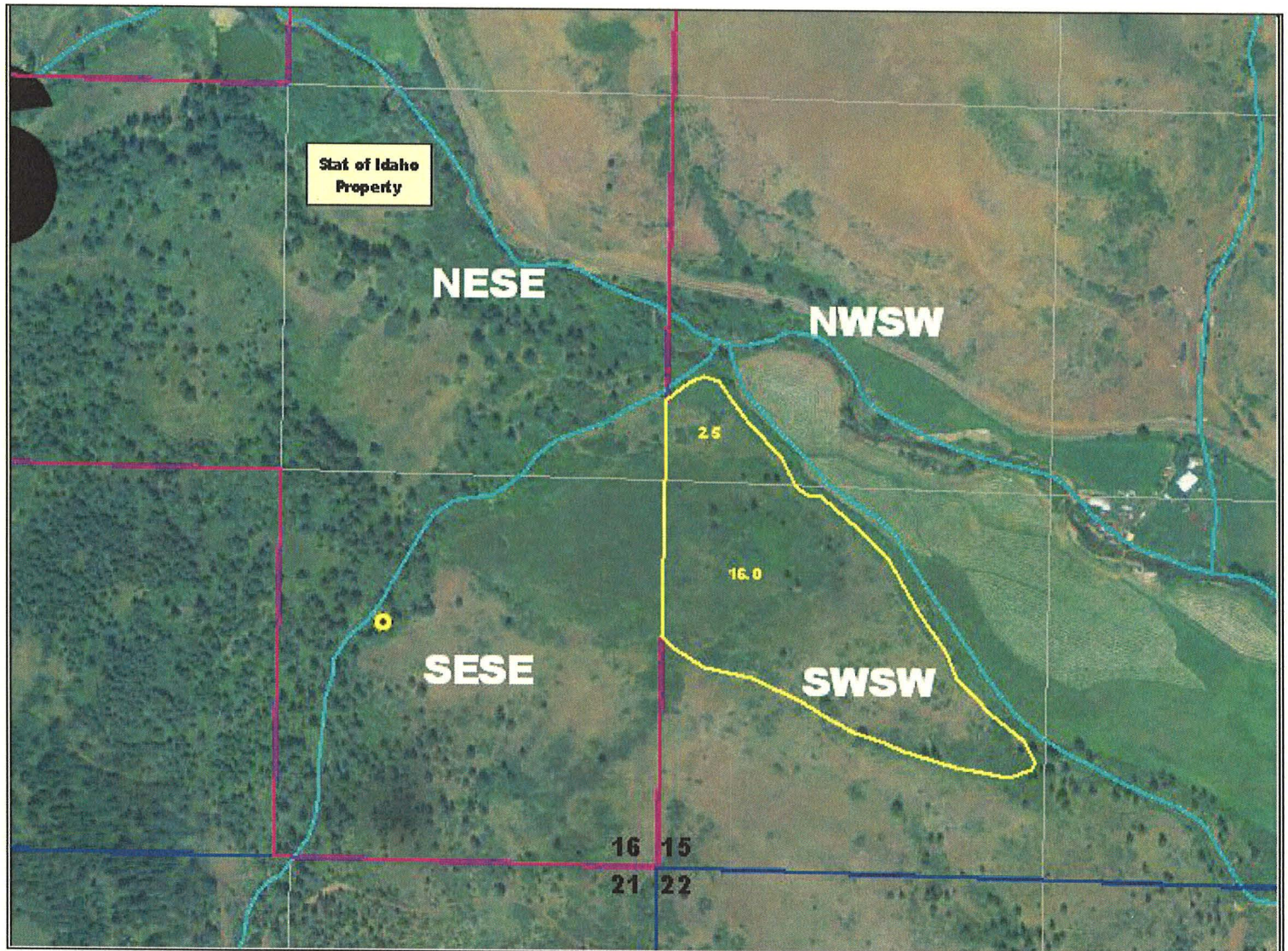


State Of Idaho

67-10637

Objection Review

1998 Photography



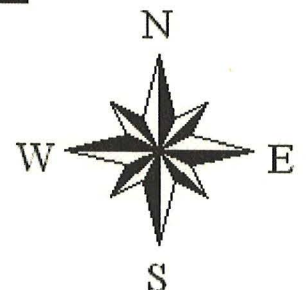
1320

0

1320 Feet

- Recommended Point of Diversion
- Drainage Paths (Streams)
- Dept of Lands Property Boundary
- Proposed Amended Place of Use
- Sections
- Quarter Quarter

18.5 acres

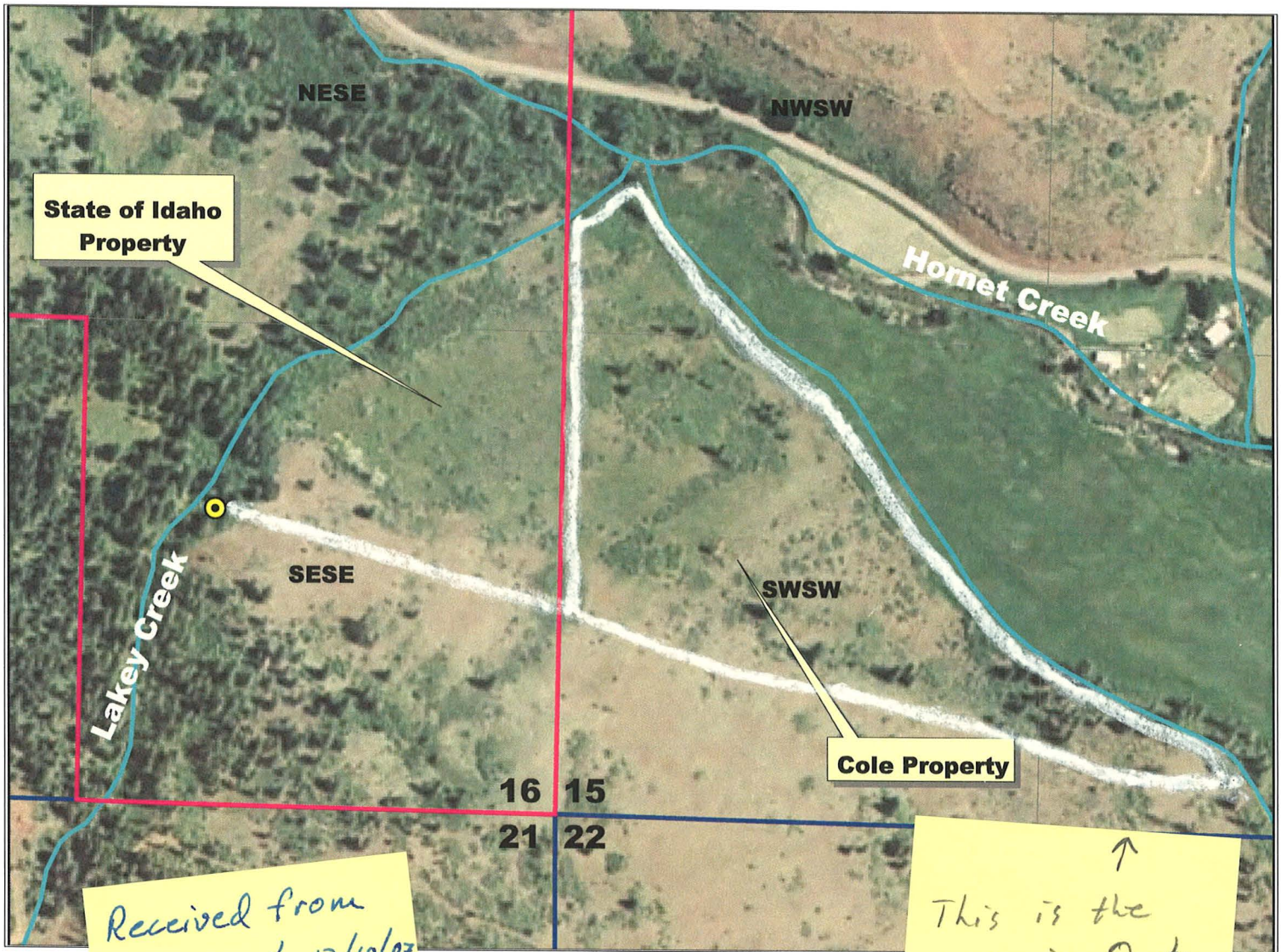


Prepared by: Craig L. Saxton
Date: December 12, 2007



State Of Idaho

67-10637 *Copy*
Objection Review



- R ersion
- Drainage Paths (Streams)
- Dept of Lands Property Boundary
- Recommended Place of Use
- Sections
- Quarter Quarter



Prepared by: Craig L. Saxton
Date: December 3, 2007

12-10-07: spoke w/ Lee Cole and he is sending in
a map with the POA for this claim outlined

Lee said the "green area is sub" but did
confirm that they divert from Lakey Creek.

11/14/2006

NOTICE OF ERROR
REPLY

RECEIVED
DEC 01 2006
DEPARTMENT OF
WATER RESOURCES

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: December 8, 2006

Water right number: 67-10637

LEE F COLE
2565 COUNCIL CUPRUM RD
COUNCIL ID 83612
Telephone Number: (208)253-4857

DORA V COLE
2565 COUNCIL CUPRUM RD
COUNCIL ID 83612-5009
Telephone Number: (208)253-4857

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

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

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

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

DATE: 11-30-06 SIGNATURE: Lee F. Cole Dora V. Cole

Please print your name: LEE F. COLE DORA V. COLE

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

SCANNED
DEC - 4 2006

06/29/2006

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

RIGHT NUMBER: 67-10637

NAME AND ADDRESS: LEE F COLE
2565 COUNCIL CUPRUM RD
COUNCIL ID 83612

DORA V COLE
2565 COUNCIL CUPRUM RD
COUNCIL ID 83612-5009

SOURCE: LAKEY CREEK

TRIBUTARY: HORNET CREEK

QUANTITY: 0.450 CFS

The quantity of water under this right for stockwater use shall not exceed
13,000 gallons per day.

PRIORITY DATE: 04/04/1901

POINT OF DIVERSION:

T17N R02W S16 SESE Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.400 CFS
STOCKWATER	01/01 12/31	0.050 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T17N R02W S15	NWSW	0.60	T17N R02W S15	SWSW	13.00
T17N R02W S16	NESE	0.40	T17N R02W S16	SESE	6.00

STOCKWATER same as IRRIGATION

20 ACRES TOTAL

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

The quantity of water decreed for this water right for stockwater use is
not a determination of historical beneficial use.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use
Stockwater use is for 150 range cattle.



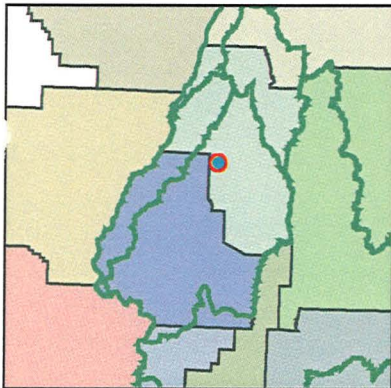
Idaho Department of Water Resources

SRBA Recommendation:

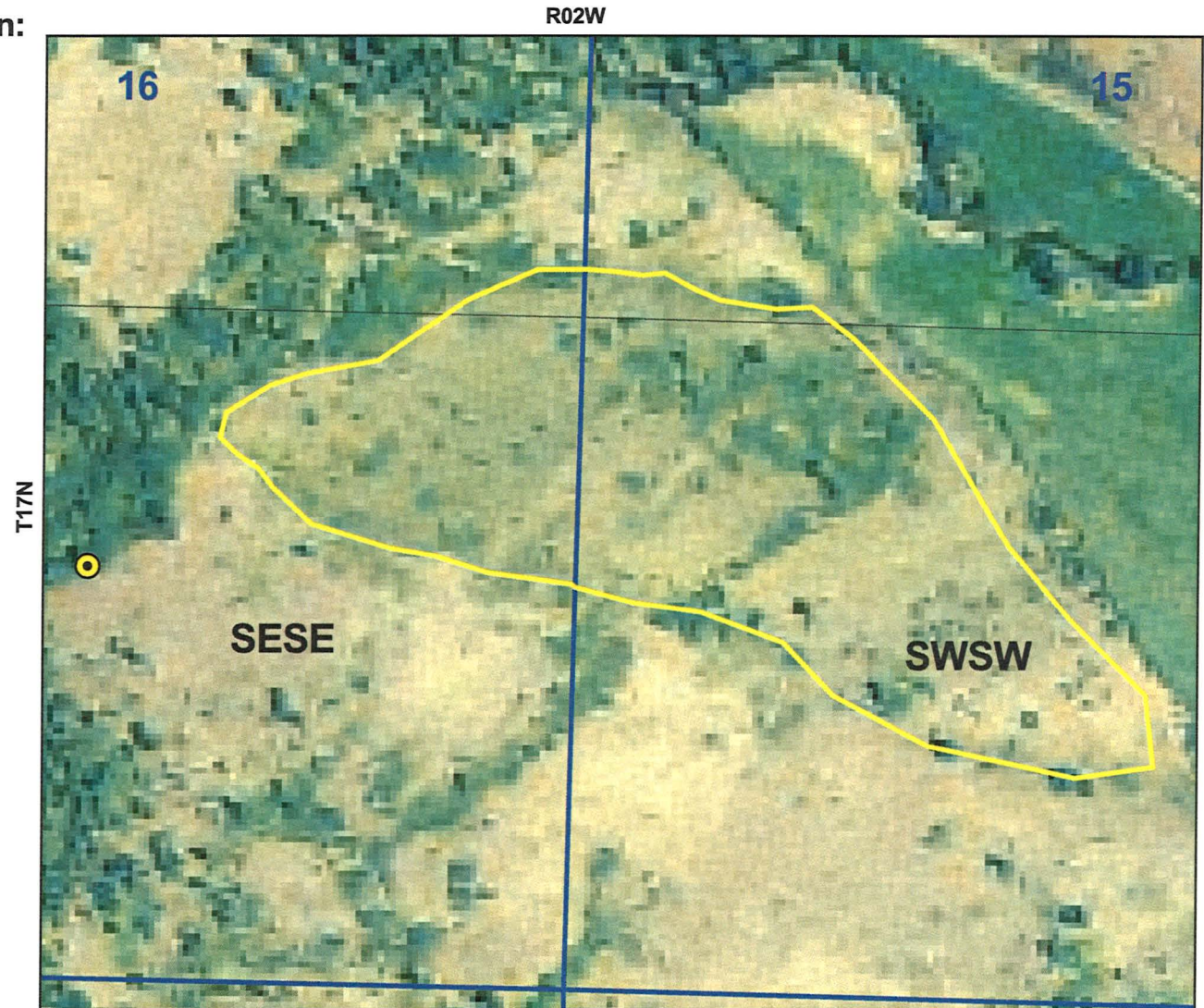
67-10637

Legend

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



Adams County
IDWR Basin 67



0 0.1 0.2 Miles



Prepared by C. Saxton
On Thursday, June 29, 2006
1987/88 Aerial Photography

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-10637 V1

WATER RIGHT NUMBER: 67-10637 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LEE F COLE 2565 COUNCIL CUPRUM RD COUNCIL, ID 83612 (208)253-4857
Current Owner	DORA V COLE 2565 COUNCIL CUPRUM RD COUNCIL, ID 83612-5009 (208)253-4857

Priority Date: 04/04/1901

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
LAKEY CREEK	HORNET CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	0.400 CFS	
STOCKWATER	01/01 to 12/31	0.050 CFS	
	<u>Total Diversion:</u>	0.450 CFS	

Location of Point(s) of Diversion

LAKEY CREEK	SE1/4SE1/4	Sec. 16, Twp 17N, Rge 02W, B.M.
ADAMS 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	
17N	02W	15											.6	13.0					13.6
17N	02W	16													.4			6.0	6.4

Total Acres: 20

STOCKWATER same as IRRIGATIONConditions of Approval:

1. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
2. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

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3. 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.
4. X02 Stockwater use is for 150 range cattle.

Remarks:Comments:

1. csaxton 6/29/2006 Priority Date

Comment: Lakey Creek was not listed as a source in Muir vs. Allison. But rights 67-406 and 67-407 were decreed from Hornet Creek and delivered from Lakey Creek. So it was unclear if this claim based on posted notice was superceded by Muir v. Allison. The place of use is not covered by another Muir v. Allison right from this or another source and the posted notice appears valid. Legal agreed that we can recommend this right dating back into Muir v. Allison.

2. csaxton 6/29/2006 Copied From Claim (1)

Comment: NOTE: THIS RIGHT IS BASED ON A POSTED NOTICE - SEE ATTACHMENT.

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: 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>
Contacts	6/29/2006 10:48:58 AM	csaxton			Active
Priority Date	6/29/2006 10:49:23 AM	csaxton			Active
POD	6/29/2006 10:49:49 AM	csaxton			Active
Source	6/29/2006 10:51:41 AM	csaxton			Active
POU	6/29/2006 10:52:22 AM	csaxton			Active
Use	6/29/2006 11:11:29 AM	csaxton			Active
Season	6/29/2006 11:12:06 AM	csaxton			Active
Quantity	6/29/2006 11:13:38 AM	csaxton			Active
Summary			06/29/2006	csaxton	Active

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Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Contacts	6/29/2006 10:48:57 AM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: Field Exam By Melanie Vining on 6-21-05.
POD	6/29/2006 10:49:48 AM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POD	6/29/2006 10:50:13 AM	csaxton	Updated shape
POU	6/29/2006 10:56:24 AM	csaxton	Updated PLS for Active POU
POU	6/29/2006 11:11:05 AM	csaxton	Updated shape for Active POU
POD	6/29/2006 10:51:15 AM	csaxton	Updated PLS
POU	6/29/2006 10:52:38 AM	csaxton	Updated shape for Active POU
POU	6/29/2006 11:11:12 AM	csaxton	Updated PLS for Active POU
General	6/29/2006 10:49:23 AM	csaxton	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (Yes) 8. Is the basis of claim a posted notice? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
Source	6/29/2006 10:51:40 AM	csaxton	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (Yes) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - Field Exam By Melanie Vining on 6-21-05.

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POU	6/29/2006 10:52:21 AM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required? Description for Question 13 - Field Exam By Melanie Vining on 6-21-05.
Use	6/29/2006 11:11:30 AM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - Field Exam By Melanie Vining on 6-21-05.
Season	6/29/2006 11:12:07 AM	csaxton	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Quantity	6/29/2006 11:13:40 AM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (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 - Theoretical slope calculation made from field exam notes.

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Summary	6/29/2006 11:28:08 AM	csaxton	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (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?
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Water Supply Bank:

Slope Area Method

$$Q = \frac{1.486}{n} A (R)^{2/3} (S)^{1/2}$$

Q = discharge in second-feet

A = Mean are of the channel cross section in square feet

R = Mean Hydraulic radius of the channel in feet (cross section divided by wetted perimeter)

S = Slope fo the water surface = fall/ length of course

n = A roughtness factor depending on the character of the channel lining (0.01 for ideal to 0.06 for rough with debris etc)

$$A = 0.75 \times 0.667 \quad A = 0.50$$

$$R = \text{wetted perimeter} = 2.1 \quad R = 0.238$$

$$S = \frac{\text{rise}}{\text{run}} = \frac{40}{29} \quad S = 1.38$$

$$n = 0.02 \quad 0.01 \text{ to } 0.06 \quad n = 0.6$$

$$Q = 0.56 \text{ cfs}$$

Notes: Assumed the worst n coefficient. Ditch width and depth from Field Exam by
Melanie Vining on 6-21-05



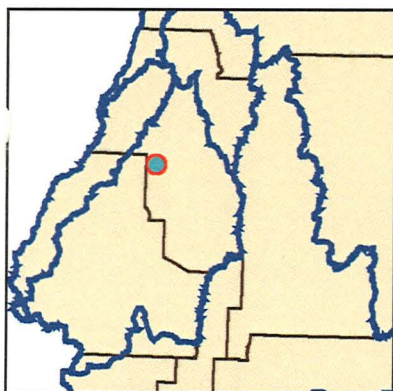
Idaho Department of Water Resources

Adjudication Claim Number: **67-10637**

T17N R02W

Legend

- Adams taxlots
- GCDB17N02W GCDB
- Claim POD



Adams County
IDWR Basin 67



0 0.3 0.6 Miles

Prepared by M. Van Bussum
On Thursday, June 16, 2005
1987 Aerial Photography

POU - water flows along silver dotted line, allowed to track out of ditch + follows a cross down slope. Steep country, so run-out first ditch deep not need sub claim

Notes

67-10637

6/21/05 - POD: Small ditch off Lakey Creek.

A0016895

Coord: 2296077
1514729

May need flow measurement - Bosco has not been
to this ditch. Ditch approximately
9 inches wide, 8 inches deep

priority date: Lee Cole submitted document in file.
Looks like 1914 is a solid date, but would
like Chris to look at document. Cole
remembers finding car nailed to tree;
contained actual posted notice. This was
in the 1950's, I believe.

George T. Russell, and
Mary A. Russell, his wife.

WARRANTY DEED.

3,

To _____
Mattie M. Keys.

Dated March 21st, 1914.
Ack'd. March 21st, 1914.
Filed May 7th, 1914.
Book "4" of Deeds page 69-70
Consideration \$7000.00

Grant, bargain, sell, convey and confirm all the following described real estate, situated in Adams County, State of Idaho, to-wit:-

(★) The West half of the South west quarter, the North east quarter of the South west quarter, and the North west quarter of the South east quarter of Section 15, Township 17, North of Range 2, West of the Boise Meridian, containing 160 acres more or less.

Excepting therefrom the right of way of the P. & I. N. R. R. Co., heretofore deeded to it through said lands by grantor.

Together with all water and water rights and ditches thereunto belonging or in anywise appertaining, used or appurtenant to said lands, together with all rights of way for ditches used to convey water to said lands. Together with 35.75 shares of stock of the Hornet Creek Water Storage Association, the said above named water rights being evidenced in addition to said shares of stock by State Engineer's permit No. 8066 and certificate of completion of works thereunder, dated February 14th, 1914, and 25 inches of decreed water right in suit of James I. Linder et al, vs, Frank Peck, et al, in District Court of the 3rd, Jud. Dist. State of Idaho in and for Washington County. Also notice of water right dated April 4th, 1901, and recorded April 8th, 1901 in Book "2" of water rights of Washington County, Idaho, page 64.

Subject to mortgage for \$800.00 in favor of the Oregon Mortgage Co., which second party assumes and agrees to pay with accrued interest thereon.

Acknowledged by George T. Russell and Mary A. Russell his wife, before L. L. Burtenshaw, Notary Public, Adams County, Idaho. Seal com. ex. August 7th, 1917.

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A67-10637
Date Received: 10/06/1989
Receipt No: W006171
Received By: [Signature]

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LEE F. COLE 208-253-4857
Address: HC 67, BOX 2380
COUNCIL, ID 83612
OR
Name: DORA V. COLE 208-253-4857
Address: HC 67, BOX 2380
COUNCIL, ID 83612

2. Date of Priority: APR 04, 1901

3. Source: LAKEY CREEK Trib. to: HORNET CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
17N	02W	16	SE	SE			ADAMS

5. Description of diverting works:
DIV. DAM WITH DITCHES, FLOOD IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.400		
STOCKWATER	01/01	12/31	0.050		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER - 150 HD.

SCANNED
MAY 10 2004

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
17N	02W	15	NW		SW		IRR	3.0
			SW		SW		IRR	17.0
							Section Acres	20.0
							Total Acres	20.0

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used:
NONE.

14. Remarks:
NOTE: THIS RIGHT IS BASED ON A POSTED NOTICE - SEE ATTACHMENT.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: 1 MAP FILED IN A67-00383A

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): Lee F. Cole Date: 10/5/89

Date: _____

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 5th day
of October 19 89
Jan Thurtell
Notary Public

Seal

Residing at Meridian ID
My Commission Expires 9-14-94

George T. Russell,
Claimant.

3, To
The Public.

NOTICE OF WATER RIGHT.

Dated April 4th, 1901,

Filed April 8th, 1901,

Book "A" Water Rights page 142

1. ---Notice is hereby given, that George T. Russell of Dale, Idaho, hereby claim the use of the waters of Lakey Creek to the extent of four cubic feet per second.

2. -- It is intended to divert said water at or near the point where a copy of this notice is posted, and more definitely described as follows, at or near the SW corner of the SE quarter of the SE quarter of Sec 16, Township 17, N. R. 2, W.B.M.

3 ---The purpose for which said water is intended to be used is for agricultural purposes. The place of intended use is upon W H of SW qr, NE of SW qr and NW qr of SE qr of Sec 15, Township 17 N. R. 2 W.B.M. The general course of the proposed canal is Northeasterly. The length of the proposed canal is about one half mile. It is intended to use the waters for irrigating the following described lands heretofore described in sub-division three, the place of intended use.

4.-- It is intended to have the works for the diversion and use of said water as aforesaid completed within two years. (This must in no case exceed five years.)

Witness my hand at Dale, Idaho, this 4th day of April 1901.

George T. Russell,

Claimant.

MICROFILMED

OCT 05 1992

(Transcribed from 2 of Water Rights page 64 Washington County Records.)